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1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION
4 UNITED STATES OF :
5 AMERICA :
6 VS. : CIVIL ACTION NO. 4:18-CV-00644
7 CITY OF HOUSTON :
8
9 JANE DRAYCOTT AND :
10 PAULA KEYES :
11 VS. :
12 CITY OF HOUSTON :
13
14 VIDEOTAPED ORAL DEPOSITION OF
15 GEORGE LUTHER McATEER, JR.
16
17
18
19
20
21
22
23 April 11, 2019 Houston, Texas
24
25 REPORTED BY: Craig Michael Bechtel

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1 THE VIDEOTAPED ORAL DEPOSITION OF GEORGE LUTHER
2 McATEER, JR. was taken by PLAINTIFF UNITED STATES OF
3 AMERICA before Craig Michael Bechtel, a Certified
4 Shorthand Reporter in and for the State of Texas, in the
5 offices of the City of Houston Legal Department,
6 900 Bagby, 3rd Floor, Houston, Texas, between the hours
7 of 9:09 a.m. and 6:08 p.m., on April 11, 2019, pursuant
8 to Notice and the Federal Rules of Civil Procedure and
9 the following stipulations and waiver of counsel:
10
11 IT IS STIPULATED AND AGREED by and between
12 counsel for the respective parties hereto that all
13 objections are reserved until the time of trial, except
14 those as to the form of the question and/or
15 responsiveness of the answer; that the Federal read-in
16 is waived.
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09:09	1	THE VIDEOGRAPHER: The date is	09:12	1	please state so, and I will either restate my question
09:09	2	April 11th, 2019. The time is approximately 9:09 a.m.	09:12	2	or have the court reporter read it back. Do you
09:09	3	We are on the record.	09:12	3	understand that?
09:09	4	GEORGE LUTHER McATEER, JR.,	09:12	4	A. Yes.
09:09	5	having been first duly sworn, testified as follows:	09:12	5	Q. And unless the City's attorney instructs you
09:09	6	EXAMINATION	09:12	6	not to answer a question, I ask that you answer all my
09:10	7	BY MR. MONTEIRO:	09:12	7	questions today. Do you understand that?
09:10	8	Q. Good morning, sir.	09:12	8	A. Yes.
09:10	9	A. Good morning.	09:12	9	Q. If you need a break at any point, please let
09:10	10	Q. My name is Jeremy Monteiro. I am an	09:12	10	us know and we will do our best to accommodate that.
09:10	11	attorney for the Department of Justice, and I will be	09:12	11	Do you understand that?
09:10	12	taking your deposition today.	09:12	12	A. Yes.
09:10	13	We have met a couple times before as	09:12	13	Q. The only caveat to that I will add is if
09:10	14	well as this morning?	09:12	14	there is a question pending at the time, I will ask
09:10	15	A. Right.	09:12	15	that you the answer that question before we take a
09:10	16	Q. Would you please state your name and spell	09:12	16	break. Is that okay?
09:10	17	your last name for the record?	09:12	17	A. Yes.
09:10	18	A. George McAteer. The last name is	09:12	18	Q. You are under oath. Do you understand what
09:10	19	M-c-A-t-e-e-r.	09:12	19	testifying truthfully means?
09:10	20	Q. And what is your business address?	09:12	20	A. Yes.
09:10	21	A. My office is in terminal A south.	09:12	21	Q. And is there any reason that prevents you
09:10	22	Terminal A at IAH is 2800 North Terminal Road, Houston,	09:12	22	from testifying fully and truthfully today?
09:10	23	Texas 77032.	09:12	23	A. No.
09:10	24	Q. And is there a phone number?	09:12	24	Q. Are you on any medication that would
09:10	25	A. Yes. My office number is 281-233-7939.	09:12	25	interfere with your ability to testify fully and
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09:11	1	Q. Thank you. You understand that the United	09:12	1	truthfully today?
09:11	2	States has filed a lawsuit against the City of Houston	09:12	2	A. No.
09:11	3	relating to the Houston Fire Department. Is that	09:12	3	Q. You also met the videographer down at the
09:11	4	right?	09:12	4	end who is videotaping your testimony today. Do you
09:11	5	A. Yes.	09:13	5	understand that?
09:11	6	Q. I am going to go through a couple deposition	09:13	6	A. Yes.
09:11	7	ground rules so you understand how we will proceed	09:13	7	Q. Chief McAteer, did you meet with anyone in
09:11	8	today and let you know -- give you an opportunity to	09:13	8	preparation for your deposition?
09:11	9	ask any questions.	09:13	9	A. Yes. I spoke to one of the City attorneys.
09:11	10	A. Right.	09:13	10	Q. Who did you speak with?
09:11	11	Q. If you don't understand any of my questions,	09:13	11	A. Deidra Sullivan.
09:11	12	please state so, and I will do my best to rephrase	09:13	12	Q. When did you speak with Ms. Sullivan?
09:11	13	them. Do you understand that?	09:13	13	A. A couple days ago.
09:11	14	A. Oh, yes.	09:13	14	Q. Did you speak with her by telephone or in
09:11	15	Q. And that's the next rule I was going to	09:13	15	person?
09:11	16	explain to you.	09:13	16	A. In person.
09:11	17	The court reporter is taking down	09:13	17	Q. How long was your meeting?
09:11	18	everything that you and I say, so you need to make sure	09:13	18	A. Hour, hour and a half.
09:11	19	to answer verbally. The court reporter cannot take	09:13	19	Q. Apart from your meeting with Ms. Sullivan a
09:11	20	down if you nod your head. So if you can just answer	09:13	20	couple days ago, did you talk to anyone else about your
09:11	21	yes or no to my questions, that would be great. Do you	09:13	21	deposition?
09:11	22	understand that?	09:13	22	A. No.
09:11	23	A. Yes.	09:13	23	Q. Did you speak with anyone from the Houston
09:11	24	Q. And I will remind you if you nod your head.	09:13	24	Fire Department about your deposition?
09:11	25	If you don't hear any of my questions,	09:13	25	A. No.

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09:13	1	Q. Have you spoken with any members of the	09:16	1	Q. Ms. Cohen is representing the City?
09:13	2	Houston Fire Department about their depositions in this	09:16	2	A. Yes.
09:14	3	case?	09:16	3	Q. Have you read the United States' lawsuit in
09:14	4	A. No.	09:16	4	this case?
09:14	5	Q. Did you review any documents in preparation	09:16	5	A. No.
09:14	6	for your deposition?	09:16	6	Q. Have you read -- are you aware that
09:14	7	A. I think Deidra Sullivan --	09:16	7	Ms. Draycott and Ms. Keyes have filed their own lawsuit
09:14	8	MS. COHEN: Okay. I am going to stop	09:16	8	pertaining to this litigation?
09:14	9	you right there.	09:16	9	A. I just know that there is a lawsuit. I
09:14	10	THE WITNESS: Right.	09:16	10	don't know who filed what.
09:14	11	MS. COHEN: You are not going to talk	09:16	11	Q. Have you read news coverage of the lawsuit
09:14	12	about anything that you discussed or whenever with	09:16	12	in this case?
09:14	13	Deidra.	09:17	13	A. No, other than just being aware that there
09:14	14	THE WITNESS: Okay.	09:17	14	has been a lawsuit filed.
09:14	15	BY MR. MONTEIRO:	09:17	15	Q. Are you currently employed with the Houston
09:14	16	Q. It's just a yes or no answer. You can	09:17	16	Fire Department?
09:14	17	answer yes or no whether you reviewed any documents	09:17	17	A. Yes.
09:14	18	with Ms. Sullivan.	09:17	18	Q. What is your current position and
09:14	19	A. Yes.	09:17	19	assignment?
09:14	20	Q. Did those documents help refresh your	09:17	20	A. I am a deputy chief over aircraft rescue.
09:14	21	recollection of the events surrounding this litigation?	09:17	21	Q. Is aircraft rescue sometimes referred to as
09:14	22	A. Yes.	09:17	22	ARFF?
09:14	23	Q. Can you identify those documents without	09:17	23	A. Yes.
09:14	24	telling me, you know, the nature of your discussion?	09:17	24	Q. A-A-R-F?
09:14	25	A. The documents aren't really named.	09:17	25	A. No. A-R-F-F.
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09:14	1	Q. Can you describe what the documents were?	09:17	1	Q. A-R-F-F, thank you. I may use that acronym
09:14	2	A. Transfer histories. I think -- no. What	09:17	2	today. And you will understand that I am referring to
09:15	3	else? I think there was one kind of the -- that I had	09:17	3	ARFF, the aircraft rescue. Is that okay?
09:15	4	written, describing the creation of the internship	09:17	4	A. Yes.
09:15	5	program.	09:17	5	Q. How long have you been deputy chief over
09:15	6	I am really not remembering any	09:17	6	ARFF?
09:15	7	specifics.	09:17	7	A. Since July of 2015.
09:15	8	Q. So besides the transfer histories and the	09:17	8	Q. What are the duties and responsibilities of
09:15	9	document you wrote about the creation of the internship	09:17	9	deputy chief over ARFF?
09:15	10	program, you don't recall anything else you reviewed?	09:17	10	A. Create the budget, vehicle replacement plan,
09:15	11	A. Not specifically, no.	09:18	11	chase down station maintenance issues, any new
09:15	12	Q. Do you remember if you reviewed any of your	09:18	12	construction needed for a fire station replacement,
09:15	13	affidavits or statements pertaining to OIG	09:18	13	overall schedule, contract the training, operational
09:16	14	investigations related to this matter?	09:18	14	guidelines, letters of agreement with Houston Airport
09:16	15	A. No, no, we didn't --	09:18	15	Systems and the air traffic control tower.
09:16	16	Q. You didn't review --	09:18	16	Q. Do you have any personnel responsibilities?
09:16	17	A. We didn't talk about those, no.	09:18	17	A. In terms of?
09:16	18	Q. Are you represented today by an attorney?	09:19	18	Q. Managing HFD personnel?
09:16	19	A. No.	09:19	19	A. I am the direct supervisor for the district
09:16	20	THE WITNESS: Well, in my opinion, you	09:19	20	chiefs at station 54, and I have a staff of a senior
09:16	21	represent the City.	09:19	21	captain and two training captains.
09:16	22	BY MR. MONTEIRO:	09:19	22	Q. Are you the direct supervisor for the
09:16	23	Q. You are not represented in your personal	09:19	23	training captains?
09:16	24	capacity?	09:19	24	A. No. Really, the senior captain assistant
09:16	25	A. Correct.	09:19	25	coordinator is the direct supervisor for the training

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09:19	1 captains.	09:23	1 Q. Okay.
09:19	2 Q. Are you the senior captain -- senior	09:23	2 A. Yeah. And that was -- you know, I was a
09:19	3 captains' direct supervisor?	09:23	3 deputy chief assigned as shift commander 15.
09:19	4 A. Yes.	09:23	4 Q. Thank you. Was that -- was that position
09:19	5 Q. Who are the district chiefs at fire	09:23	5 based at the airport, as well?
09:19	6 station 54 that you are referring to? Who will report	09:23	6 A. No.
09:19	7 to you?	09:23	7 Q. Where did you work physically?
09:20	8 A. Do you want their names?	09:23	8 A. At station 15.
09:20	9 Q. Yes, please.	09:23	9 Q. Station 15, okay. And then -- so then, to
09:20	10 A. A shift is Doug Poor.	09:23	10 get back to where we were at before I asked you for the
09:20	11 B shift is Cory Richardson.	09:24	11 clarification, you said you were EMS chief for some
09:20	12 C shift is Lisa Campbell.	09:24	12 period of time?
09:20	13 And D shift is Brad Curette,	09:24	13 A. Yes. From -- sometime in 2010 until 2013.
09:20	14 C-u-r-e-t-t-e.	09:24	14 Q. And was your title EMS chief, or were you
09:20	15 Q. Who is the senior captain that reports to	09:24	15 still a deputy chief?
09:20	16 you?	09:24	16 A. No. I was a district chief at that time.
09:20	17 A. Ron Krusleski, K-r-u-s-l-e-s-k-i.	09:24	17 The call sign was 1100, and that designates the shift
09:20	18 Q. Who are the training captains that report to	09:24	18 district chief of EMS. So like I said, I was on the
09:20	19 the -- directly to the senior captain?	09:24	19 C shift at station 11.
09:21	20 A. For Intercontinental it's Jeff Gentry.	09:25	20 Q. And prior -- the position you held prior to
09:21	21 And for Hobby, it's Bobby Thompson.	09:25	21 EMS chief, was that district chief of ARFF?
09:21	22 Q. Thank you. What are the stations that you	09:25	22 A. Yes.
09:21	23 currently oversee within ARFF?	09:25	23 Q. How long did you hold the position of
09:21	24 A. Intercontinental, stations 54, 92, and 99.	09:25	24 district chief in ARFF?
09:21	25 And at Hobby, it's station 82.	09:25	25 A. From about November of 2002 until around
Page 14		Page 16	
09:21	1 Q. Are there any other stations that you	09:25	1 October of 2010.
09:21	2 oversee?	09:25	2 Q. Where did you physically work when you were
09:21	3 A. No.	09:25	3 the district chief during this period of time?
09:21	4 Q. Who do you report to currently?	09:25	4 A. At station 99, at Intercontinental Airport.
09:21	5 A. Two assistant chiefs, Herbert Griffin and	09:26	5 Q. Why did you leave ARFF in October of 2010 to
09:21	6 Isaac Garcia.	09:26	6 become EMS chief?
09:22	7 Q. You said you became deputy chief in July of	09:26	7 A. I was ready for a change.
09:22	8 2015. What position did you hold prior to that?	09:26	8 Q. Was it a voluntary move?
09:22	9 A. Okay. I was promoted to deputy chief in	09:26	9 A. Yes.
09:22	10 2013, and so I was shift commander 15. You know, that	09:26	10 Q. Is that an appointed position, or how do you
09:22	11 was my assignment.	09:26	11 go about -- how did you go about moving to EMS chief?
09:22	12 Prior to that, I was EMS chief at	09:26	12 A. District chiefs submit a -- basically a
09:22	13 station 11 on the C shift.	09:26	13 letter of interest, and it's basically up to the fire
09:22	14 Q. Can we just back up for one minute, sir?	09:26	14 chief to move district chiefs. There is a process for
09:22	15 A. Sure.	09:26	15 ranks below district chief, based on seniority.
09:22	16 Q. So I am a little unclear the position that	09:26	16 Q. The transfer process you are referring to?
09:22	17 you held from 2013 until 2015. Can you clarify that?	09:27	17 A. Right.
09:22	18 A. Yes. The fire department splits the City in	09:27	18 Q. So the fire chief approved your move from
09:22	19 half, north and south. So the shift commanders are the	09:27	19 district chief to EMS chief in 2010, October 2010?
09:23	20 direct supervisors of the field district chiefs. So I	09:27	20 A. Yes.
09:23	21 was in charge of the district chiefs north of I-10	09:27	21 Q. Who was that at the time?
09:23	22 essentially on the C shift.	09:27	22 A. Acting fire chief.
09:23	23 Q. So what was your title?	09:27	23 Q. Flanagan?
09:23	24 A. I am sorry. I was on the D shift as a shift	09:27	24 A. Flanagan, yep.
09:23	25 commander.	09:27	25 Q. Did your move to EMS chief have anything to

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09:27	1 do with what happened at station 54 in 2009 and 2010?	09:30	1 A. Well, all right. So my staff who works
09:27	2 A. No. Just ready for a change.	09:31	2 days, senior captain Krusleski.
09:27	3 Q. What were your duties and responsibilities	09:31	3 Let me think here. Who was the
09:28	4 as district chief in ARFF?	09:31	4 Intercontinental training captain?
09:28	5 A. Actually, very similar to what they are now,	09:31	5 There was Les Fulghum for a while, then
09:28	6 budget procurement, rolling stock, maintenance,	09:31	6 Robert Wisniewski when Wisniewski took over from
09:28	7 replacement items, operation guidelines, agreements	09:31	7 Fulghum.
09:28	8 with other stakeholders.	09:31	8 But Bobby Thompson was still the
09:28	9 Q. Were there -- strike that.	09:31	9 training captain at Hobby.
09:28	10 You testified earlier that there are	09:31	10 Q. So what was Krusleski's position at that
09:28	11 currently district chiefs at -- assigned to	09:31	11 time?
09:28	12 district 54. Is that right?	09:31	12 A. Same as it is now, senior captain/assistant
09:28	13 A. Yep.	09:31	13 coordinator.
09:28	14 Q. So in the time period that you were the	09:31	14 Q. And you mentioned Les Fulghum. Was he the
09:28	15 district chief of ARFF between 2002 to 2010, were there	09:31	15 training --
09:28	16 district chiefs at the airport?	09:31	16 A. Yes.
09:28	17 A. No.	09:31	17 Q. -- captain, or what is the correct
09:28	18 Q. You were the only district chief?	09:31	18 terminology?
09:28	19 A. Yes.	09:31	19 A. Intercontinental training captain.
09:28	20 Q. What stations did you oversee when you were	09:32	20 Q. Did you have direct reports at the four fire
09:28	21 district chief of ARFF?	09:32	21 stations that you identified, as well?
09:29	22 A. The same ones that I answered earlier.	09:32	22 A. Yes, because -- because I was the district
09:29	23 Q. The four airport stations?	09:32	23 chief, basically every station captain on all four
09:29	24 A. At Intercontinental Airport there is	09:32	24 shifts, I was their -- their direct supervisor.
09:29	25 station 54, 92, and 99; and at Hobby, station 81.	09:32	25 Q. When you say station captain, are you
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09:29	1 Q. Who did you report to when you were district	09:32	1 referring to senior captain position or junior captain
09:29	2 chief of ARFF?	09:32	2 or both?
09:29	3 A. There were a number of assistant chiefs that	09:32	3 A. Well, at a station that has both, it would
09:29	4 came through.	09:32	4 be the senior captain.
09:29	5 Q. How about in the 2009/2010 time period?	09:33	5 Q. So the -- who were the senior captains at
09:29	6 A. Omero Longoria was the assistant chief, and	09:33	6 the four stations between 2008 and 2010?
09:29	7 Danny Snell was the executive assistant chief.	09:33	7 A. Boy, I don't remember who was around.
09:29	8 Q. Were one of those gentlemen your district	09:33	8 Q. Was captain Tamez one of them?
09:29	9 supervisor?	09:33	9 A. Yes.
09:29	10 A. Yeah. Technically I suppose Omero Longoria	09:33	10 Q. Do you know of any other?
09:30	11 was the direct supervisor, but frankly, he deferred	09:33	11 A. He was A shift.
09:30	12 most of the time to Danny Snell.	09:33	12 Jose Ponce was B shift.
09:30	13 And that's who I talked to principally.	09:33	13 I am drawing a blank on C shift. You
09:30	14 Q. Was chief Snell your second line supervisor?	09:33	14 know, that might have been Don Hoyt on the C shift.
09:30	15 A. What do you mean by second line?	09:33	15 Who was the captain on the D? Bryant
09:30	16 Q. I mean, was he -- did Snell -- sorry.	09:34	16 Holmes.
09:30	17 Strike that.	09:34	17 Q. Were all -- were those four senior captains
09:30	18 Did Longoria report to Snell?	09:34	18 stationed at station 54 in this time period?
09:30	19 A. Yes.	09:34	19 A. Yes. Yes, I believe so.
09:30	20 Q. So Snell was second in your chain of	09:34	20 Q. Did you have senior captains at any of the
09:30	21 command. Is that right?	09:34	21 other airport stations during that time period?
09:30	22 A. Yes, going up, yes.	09:34	22 A. Not at that time period.
09:30	23 Q. Going up, right. And who reported to you in	09:34	23 Q. There were captains signed to the four
09:30	24 the 2009/2010 time frame when you were district chief	09:34	24 stations that we have discussed, as well. Is that
09:30	25 of ARFF?	09:34	25 right?

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09:34	1	A. Yes.	09:38	1	senior captains. Is that fair?
09:34	2	Q. Are those sometimes referred to as junior	09:38	2	A. Oh, yes.
09:34	3	captains?	09:38	3	Q. What kind of -- what were your expectations
09:34	4	A. Yes. It's gotten to be old terminology.	09:38	4	in terms of what types of issues your senior captains
09:34	5	Q. Are the -- did the junior captains report to	09:38	5	or captains would make you aware of?
09:34	6	you or their senior captains?	09:38	6	A. Really, anything out of the ordinary. You
09:35	7	A. If they worked at station 54, then they	09:38	7	know, I told them I want to be notified of anything
09:35	8	reported to their senior captain.	09:39	8	that could show up on the news, anything that impacts
09:35	9	Q. All right. So most of our discussion today	09:39	9	operation readiness, truck breaks down, someone gets
09:35	10	will involve discussing your role as district chief	09:39	10	hurt, damage to the station or equipment.
09:35	11	between 2003-2010 time frame. So unless I say	09:39	11	Q. How did you communicate these instructions
09:35	12	otherwise, you can assume that my questions that I am	09:39	12	to the officers?
09:35	13	asking are related to that time period. Is that okay?	09:39	13	A. Verbally.
09:35	14	A. Yes, 2003 to 2010? Is that what you said?	09:39	14	Q. Are there any -- are you aware of any HFD
09:35	15	Q. Yeah.	09:39	15	policies or procedures which lay out what sorts of
09:35	16	A. Okay.	09:39	16	issues the officers should bring to the district
09:35	17	Q. What was your level of interaction with your	09:40	17	chief's attention?
09:35	18	senior captains while you were district chief over	09:40	18	A. I don't -- I don't really recall anything
09:35	19	ARFF?	09:40	19	written down. This is the same instructions I have
09:35	20	A. Varied. Most of my days were taken up with	09:40	20	received verbally from my bosses.
09:36	21	meetings with HAS groups, maybe meetings at HFD and	09:40	21	Q. And what level of discretion did you provide
09:36	22	working on administrative things, you know, requests	09:40	22	to the officers to manage their crews and shifts?
09:36	23	for replacement of equipment and procurement and all	09:40	23	A. I think a reasonable level, you know, if --
09:36	24	that entails.	09:41	24	if they can take care of the issue, resolve it, or
09:36	25	I didn't go by station 54 daily to line	09:41	25	direct how to proceed, I don't need to be brought in
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09:36	1	out their day for them, no.	09:41	1	on -- on every -- on every detail of the running of the
09:36	2	Q. You relied on the senior captains to do	09:41	2	station.
09:36	3	that?	09:41	3	Q. You don't -- you wouldn't consider yourself
09:36	4	A. Yes.	09:41	4	a micromanager?
09:36	5	Q. Is that fair?	09:41	5	A. Right. I don't believe I am a micromanager.
09:36	6	A. Yes.	09:41	6	Q. What sorts of situations would you find
09:36	7	Q. Did you have like a standing meeting with	09:41	7	yourself getting involved with at the stations?
09:36	8	the senior captains where you met at a certain	09:41	8	A. Mostly I was trying to enforce the
09:36	9	frequency?	09:42	9	department guidelines.
09:37	10	A. We tried to have quarterly officer meetings.	09:42	10	Parking, for example, for whatever
09:37	11	It didn't always work out, but...	09:42	11	reason firefighters want to park inside the station,
09:37	12	Q. Who would attend the quarterly officer	09:42	12	you know, behind the apparatus stalls. And the
09:37	13	meetings?	09:42	13	department has written guidelines on that, and I put
09:37	14	A. Well, the officers.	09:42	14	out several reminders that, you know, officers are not
09:37	15	Q. That would be the captains and senior	09:42	15	to allow firefighters to park in or behind the station.
09:37	16	captains?	09:42	16	There is a parking lot.
09:37	17	A. Yes.	09:42	17	Q. Are there other examples that come to mind?
09:37	18	Q. When you have your -- when you held these	09:42	18	A. For what I would get involved with?
09:37	19	quarterly meetings, was there a set agenda, or how did	09:42	19	Q. Right.
09:37	20	they proceed?	09:42	20	A. Okay. You know, if I saw someone who was
09:37	21	A. I typically tried to create an agenda of	09:43	21	obviously outside the norm of the grooming guideline,
09:37	22	things that I wanted to cover and leave time for	09:43	22	you know, males with hair that's way too long or
09:37	23	questions.	09:43	23	mustaches down to the jawline, those kinds of things, I
09:38	24	Q. So you mentioned earlier that you kind of	09:43	24	mentioned that to the captains.
09:38	25	left the day-to-day management of station 54 to your	09:43	25	If the station was looking really

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09:43	1	unkempt, you know, I bring that to their attention.	09:47	1	OIG investigates it.
09:43	2	Q. That would be based on your personal	09:47	2	If it's a rules violation, staff
09:43	3	observation you would raise those types of issues?	09:47	3	services would assign it.
09:43	4	A. Right, yeah, but then, you know, sometimes	09:47	4	And if there was some sort of conflict
09:43	5	they would ask: You know, hey, I got this situation.	09:47	5	of interest, they would assign it to someone other than
09:43	6	What do you think?	09:47	6	me.
09:43	7	So -- so I would, you know, if I	09:47	7	Q. When you say staff services would assign
09:43	8	didn't -- if I didn't know the answer, well, let me go	09:47	8	complaints regarding rules violations, is that to you?
09:44	9	check.	09:47	9	MS. COHEN: Objection; asked and
09:44	10	You know, chief Snell was very	09:47	10	answered.
09:44	11	knowledgeable, lots of experience, so I try to get	09:47	11	BY MR. MONTEIRO:
09:44	12	direction from my supervisor.	09:47	12	Q. I am just looking for clarification.
09:44	13	Q. How often did you visit the stations under	09:47	13	A. If there wasn't -- if there was not a
09:44	14	your -- under your command?	09:47	14	conflict of interest on my part, that maybe I had
09:44	15	A. Well, since I officed in one of them, you	09:47	15	already addressed the issue with this member, okay, if
09:44	16	know, I didn't really -- did not and still don't have a	09:47	16	none of that existed, then they would assign it to me
09:44	17	schedule of, you know, visiting any number of stations	09:48	17	or -- or another investigator. You know, I -- I don't
09:44	18	on any kind of regular basis. It's generally as	09:48	18	know their methodology of assigning complaints to
09:44	19	needed.	09:48	19	investigators.
09:44	20	Q. Apart from station 99, which you were there	09:48	20	Q. Are you aware of any policies or procedures
09:44	21	every day?	09:48	21	which lay out that process?
09:44	22	A. Right.	09:48	22	A. No.
09:45	23	Q. And when you say as needed, would that be at	09:48	23	Q. Would that be an OIG procedure?
09:45	24	the request of one of your officers, or would you do	09:48	24	A. Yes. I mean....
09:45	25	that on your own volition?	09:48	25	Q. So when you were brought in to investigate
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09:45	1	A. Both.	09:48	1	OIG complaints, how did you go about conducting your
09:45	2	Q. If there was behavior going on at a station	09:48	2	investigation?
09:45	3	that violated some HFD guideline, would that be enough	09:48	3	A. Well, I think the first few times, since it
09:45	4	to warrant your attention?	09:48	4	really wasn't any training on how to conduct an
09:45	5	A. If the officer wasn't -- wasn't handling it	09:48	5	investigation, I would ask my supervisor: So how does
09:45	6	or it wasn't getting resolved, sure.	09:49	6	one go about doing this?
09:45	7	Q. And you would need the officer to make you	09:49	7	And so they would tell me their
09:45	8	aware of that, obviously?	09:49	8	thoughts.
09:45	9	A. Yes.	09:49	9	And okay.
09:46	10	This is probably silenced.	09:49	10	Q. That would be assistant chief Snell that you
09:46	11	Q. When you visited the stations, did you have	09:49	11	would ask that of?
09:46	12	a practice of reviewing the captains' logs?	09:49	12	A. Yeah, I think, you know, early on, we are
09:46	13	A. No, not unless the reason I was there was to	09:49	13	still in the 2003 to 2010. I mean, I think the first
09:46	14	look something up.	09:49	14	one I investigated was probably in '03 or '04. That
09:46	15	Q. Was one of your responsibilities during this	09:49	15	was chief Raul Reyes.
09:46	16	time to investigate OIG complaints?	09:49	16	Q. Were you provided with any standards to
09:46	17	A. If -- if they sent me one to investigate, I	09:49	17	follow when conducting your investigation?
09:46	18	would.	09:49	18	A. It seemed like there was one page of, you
09:46	19	Q. And who would send you OIG complaints to	09:49	19	know, you fill out this form and you come up with a --
09:46	20	investigate?	09:49	20	with a ruling, one of these four outcomes and
09:46	21	A. OIG -- well, staff services. You know, it's	09:50	21	instructions on how to route your paperwork and what
09:46	22	like the same thing.	09:50	22	kind of forms to have, you know, signed by certain
09:47	23	Q. It sounds like you weren't investigating all	09:50	23	deadlines.
09:47	24	of the OIG complaints?	09:50	24	Q. Anything else that you remember?
09:47	25	A. No. Typically if it's criminal in nature,	09:50	25	A. No. It was just here is an investigation;

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09:50	1 go investigate.	09:54	1 A. Okay. At some point we come up with
09:50	2 Q. And when you completed your investigation,	09:54	2 recurrent CE. I think that was later, like
09:50	3 what would you do with your findings or	09:54	3 2009/2010 -- 2010, I think.
09:50	4 recommendations?	09:54	4 So early on, they were just ARFF
09:50	5 A. Take it back, hand it to staff services.	09:54	5 certified. And then when the next vacancy posting
09:50	6 Q. Did you make recommendations as part of your	09:54	6 comes out, they are now eligible to submit a transfer
09:50	7 investigation, or did you just reach conclusions?	09:54	7 request for one of the ARFF vacancies.
09:51	8 A. Generally just reached conclusions.	09:54	8 Q. Okay. And do you get a lot of -- have you
09:51	9 Q. Would OIG then -- sorry.	09:54	9 typically gotten a lot of applicants?
09:51	10 Would staff services then make any	09:54	10 A. Yes. More and more.
09:51	11 recommendations or take any further action as	09:55	11 Q. Is it considered -- is ARFF considered a
09:51	12 necessary?	09:55	12 desirable place to work?
09:51	13 A. That's my understanding, but it's -- it's	09:55	13 A. I believe so.
09:51	14 all a very confidential process. I'm not privy to it.	09:55	14 Q. Why do you think that?
09:51	15 Q. Once you provided your conclusions to staff	09:55	15 A. Well, from -- I personally enjoy the
09:51	16 services, your role was finished?	09:55	16 assignment. I think the crews do a very good job. I
09:51	17 A. Yes.	09:55	17 think when -- when people see a well-run group within
09:51	18 Q. How does a firefighter who wants to work at	09:55	18 the fire department, that's attractive, and they would
09:51	19 ARFF get assigned there?	09:55	19 like to be a part of that.
09:51	20 A. All right. There is -- as a prerequisite,	09:55	20 Q. Is it considered specialized work?
09:51	21 you have to be ARFF certified. So there is a -- we	09:55	21 A. Yes.
09:52	22 solicit applications for -- generally it's an annual	09:55	22 Q. Within HFD?
09:52	23 class.	09:55	23 A. Yes.
09:52	24 Members turn in their applications.	09:55	24 Q. What is specialized about the work compared
09:52	25 There is a point system, and seniority	09:55	25 to work at a suppression station?
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09:52	1 is a factor, also.	09:55	1 A. Okay. So we are part of special operations,
09:52	2 So we tally up the applications, rank	09:55	2 which includes ARFF, rescue, and hazmat. So there is
09:52	3 them based on the point system, and for whatever ranks,	09:55	3 an additional body of knowledge beyond the structural
09:52	4 the number of each different rank that we are looking	09:56	4 firefighting and EMT certifications.
09:52	5 for, then we select that number of people from the	09:56	5 There are different rules of
09:52	6 application list and they go to ARFF school and get	09:56	6 engagements. You know, you have FAA mandates, how
09:52	7 certified.	09:56	7 airports are operated, and anyone who works here has to
09:52	8 Q. Can I interrupt you for just one second?	09:56	8 follow these rules.
09:52	9 A. Yes.	09:56	9 And you know, there has to be
09:52	10 Q. You mentioned -- you said seniority is one	09:56	10 documented training on every aspect of the ARFF
09:52	11 of the factors.	09:56	11 firefighter's job and documented testing of the
09:52	12 What are the other factors in the point	09:56	12 equipment and demonstration of proficiency, operating
09:52	13 system?	09:56	13 the equipment, operating the equipment on the air
09:52	14 A. There were things like associate's degree,	09:56	14 field, communicating with the air traffic control
09:53	15 bachelor's degree, advanced firefighter, master	09:57	15 tower.
09:53	16 firefighter. Those are Texas Commission on Fire	09:57	16 So these are all things that the
09:53	17 Protection certifications. Other certifications back	09:57	17 structural firefighter is not required to do.
09:53	18 then, paramedic, if you had prior ARFF from somewhere,	09:57	18 Q. So the job knowledge requirement of an ARFF
09:53	19 rescue, hazmat. So generally there was a maximum of	09:57	19 firefighter is more complex than a suppression
09:53	20 five certification points and a maximum of five	09:57	20 firefighter. Is that fair?
09:53	21 seniority points.	09:57	21 A. Yes. It's different. I am not saying it's
09:53	22 Q. And before my question you testified that	09:57	22 better or worse. It's just -- it's different.
09:54	23 you have a pool of applicants who take the ARFF class	09:57	23 There is a lot of training burdens
09:54	24 to get certified.	09:57	24 placed on the ARFF firefighter. He has to essentially
09:54	25 What happens next in the process?	09:57	25 memorize all the pertinent details of the aircraft that

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09:57	1 operate out of your airport, the size of the aircraft,	10:01	1 captain, I am referring to these -- they would be the
09:57	2 number of passengers, amount of fuel, number of exits,	10:02	2 station captain, I guess, within ARFF.
09:57	3 where are the exits, where are cutoffs, all of the	10:02	3 A. Okay.
09:57	4 signage, markings, lighting systems at the airport.	10:02	4 Q. When I am referring to station captain,
09:57	5 So it's -- it's -- there is a lot of	10:02	5 let's assume that it's station 54 so we are talking
09:58	6 information to acquire and master.	10:02	6 about the junior captain's responsibilities.
09:58	7 Q. Are the -- your response vehicles	10:02	7 A. Okay.
09:58	8 specialized or different than what you find at the --	10:02	8 Q. What are the -- what are the junior
09:58	9 in suppression?	10:02	9 captain's responsibilities? What were the junior
09:58	10 A. Yes, very different. They are larger, more	10:02	10 captain's responsibilities during this time frame?
09:58	11 powerful, faster, bigger capacities, complex,	10:02	11 A. Generally the captain and the senior work
09:58	12 electronics. You know, they use a joystick to operate	10:02	12 that out. There is some administrative work in the
09:58	13 the turrets instead of pulling hose. We have got three	10:02	13 morning in terms of basically count the people who
09:58	14 radios to juggle versus the one HFD radio to listen to.	10:03	14 showed up for work, is anyone missing, you know, are
09:58	15 You know, we have to bring -- we are	10:03	15 there any issues, somebody is running late, a -- I have
09:58	16 self sustained, self contained. We have to bring our	10:03	16 got an issue. I will be in at 10:00, so you know --
09:58	17 water with us, because there are no hydrants on the	10:03	17 because we have to nail that down by 6:30.
09:59	18 airfield, so you know, learn what agents to use, when,	10:03	18 Q. And is that something that a junior captain
09:59	19 use them sparingly, because that's all you got.	10:03	19 typically handles or senior captain or --
09:59	20 Q. So the operation of the response vehicles	10:03	20 A. It's really kind of however they want to
09:59	21 requires a separate body of knowledge. Is that fair?	10:03	21 parcel that out.
09:59	22 A. Yes.	10:03	22 Q. It's within their discretion to figure that
09:59	23 Q. Are there any EMT responsibilities within	10:03	23 out?
09:59	24 ARFF for firefighters?	10:03	24 A. Yeah. Some senior captains want to
09:59	25 A. Yes. There are about 12 to 15 EMS calls per	10:03	25 personally talk to someone calling in second. I don't
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09:59	1 day at the airport, you know, a number of passengers	10:03	1 know.
09:59	2 going through -- through the terminals. It's a -- it's	10:03	2 You know, that's really their -- their
10:00	3 like a moderate size city.	10:03	3 business, but -- so they have to figure out their
10:00	4 Q. And do you-all have ambulances or how do the	10:03	4 manpower, roster of, you know -- essentially say who is
10:00	5 firefighters respond to those types of calls?	10:04	5 on what riding position on each vehicle that day.
10:00	6 A. We have one medical unit. And then at	10:04	6 And you know, no -- they will kind of
10:00	7 Intercontinental we have a structural fire truck that	10:04	7 make sure the crew is checking out their equipment, you
10:00	8 is a first responder.	10:04	8 know, cleaning their apparatus, clean the station, you
10:00	9 Of course anyone on the airfield could	10:04	9 know, their -- their daily duties.
10:00	10 walk into the fire station, you know, bring an injured,	10:04	10 And there is usually some kind of
10:00	11 sick person and drop him off.	10:04	11 training to captain or senior captain, either one, you
10:00	12 Q. If you know, how does the volume of EMS	10:04	12 know, can kind of assign what the training is today,
10:00	13 calls received within ARFF compare to volume of EMS	10:04	13 let the crew know about new bulletins, guidelines,
10:00	14 calls received throughout -- outside of ARFF? More or	10:05	14 events of the day.
10:01	15 less?	10:05	15 Q. Who are -- who are the junior captain's
10:01	16 A. That's really a -- you know, a hard question	10:05	16 subordinates within the station?
10:01	17 to answer. Each station or area has varying call	10:05	17 A. Well, the firefighters and
10:01	18 volumes.	10:05	18 engineer/operators.
10:01	19 In general, you know, I would say	10:05	19 Q. And is the junior captain those individuals'
10:01	20 that's probably close to an average call volume for --	10:05	20 first line supervisor?
10:01	21 for -- an EMS unit in the Houston Fire Department.	10:05	21 A. Yes.
10:01	22 Q. So it's about the same?	10:05	22 Q. Can the junior captain order his or her
10:01	23 A. Yes.	10:05	23 subordinates to perform specific duties?
10:01	24 Q. I want to shift our focus to the captain's	10:05	24 A. Yes.
10:01	25 position within ARFF, and when I am talking about	10:05	25 Q. Can the junior captain counsel or coach his

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10:05	1 or her subordinates?	10:08	1 a -- a 42 is not enough. You need to escalate it to
10:05	2 A. Yes.	10:09	2 a 34.
10:05	3 Q. Does the junior captain have responsibility	10:09	3 Q. Is it a progression so the captain has to
10:05	4 for evaluating his or her subordinates' work	10:09	4 fill out a form 42 and then a 43 -- sorry -- 34?
10:05	5 performance?	10:09	5 A. Well, like I said, if it's a -- if it's of a
10:05	6 A. Yes.	10:09	6 serious enough nature, then you skip the 42 and go
10:05	7 Q. Is the junior captain required to document	10:09	7 right to the 34.
10:06	8 his or her subordinates' work performance?	10:09	8 Q. As the district chief did you have any role
10:06	9 A. Yes, either on a performance evaluation or	10:09	9 in reviewing the form 34 entries?
10:06	10 personnel file.	10:09	10 A. I think it required my signature.
10:06	11 Q. When you are referring to personnel file,	10:10	11 Q. And you expected your captains to use the
10:06	12 are you referring to either a form 42 or a form 34?	10:10	12 form 34 to document any problems with the -- with their
10:06	13 A. Yes.	10:10	13 employees' performance?
10:06	14 Q. Are those the forms that the junior captain	10:10	14 MS. COHEN: Objection; mischaracterizes
10:06	15 would use to document his or her subordinates' work	10:10	15 prior testimony.
10:06	16 performance?	10:10	16 BY MR. MONTEIRO:
10:06	17 A. Yes, both good and bad.	10:10	17 Q. You can answer.
10:06	18 Q. What is a form 42?	10:10	18 A. Yes. I expect them to document good and bad
10:06	19 A. It's part of a personnel file to document	10:10	19 performance.
10:06	20 good or bad performance.	10:10	20 Q. You also mentioned performance evaluations.
10:07	21 Q. And as the district chief did you have any	10:10	21 What is the -- sorry. Let me back up.
10:07	22 role in reviewing the form 42s or discussing those with	10:10	22 Who had responsibility for filling out
10:07	23 your captains?	10:10	23 the performance evaluations for the firefighter and the
10:07	24 A. Not on a routine basis. You know, if they	10:10	24 EEO?
10:07	25 pointed something out, hey, look at this, what do you	10:10	25 A. The supervisor, the captain.
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10:07	1 think, I would look at it or if -- if I told them, hey,	10:10	1 Q. The junior captain at station 54?
10:07	2 you know, this person had a failure, a leak failure	10:10	2 A. Yes. You know, the current -- the current
10:07	3 while driving on the AOA, you need to make sure that's	10:11	3 rank is called captain, so there is a captain and
10:07	4 documented on a 42.	10:11	4 senior captain, okay?
10:07	5 Q. So you could direct the captain to fill that	10:11	5 Q. So when you say captain, you are referring
10:07	6 out?	10:11	6 to what we previously talked about as the junior
10:07	7 A. Right, uh-huh.	10:11	7 captain?
10:07	8 Q. That would be based on your observation, the	10:11	8 A. Yes.
10:07	9 example you just gave us?	10:11	9 Q. Thank you. And what is the purpose of the
10:07	10 A. Either my observation or I heard that this	10:11	10 performance evaluation?
10:08	11 happened, you know. Hey, did this happen?	10:11	11 A. Well, it's an annual evaluation of an
10:08	12 Yeah.	10:11	12 employee's performance.
10:08	13 Okay. Well, did you document it on a	10:11	13 Q. Is one of the purposes to provide the
10:08	14 42?	10:11	14 employee with feedback on their performance?
10:08	15 Well, no, I talked to him.	10:11	15 A. Yes.
10:08	16 No. You need to document it.	10:11	16 Q. Is one of the purposes to raise any problems
10:08	17 Q. So your expectation is that the captains	10:11	17 with the employee's performance?
10:08	18 would use the form 42 to document any problems with the	10:11	18 A. It could be that, or it could be to praise
10:08	19 employee's performance?	10:11	19 the employee's superior performance.
10:08	20 A. Yes.	10:12	20 Q. So it could be good performance or bad
10:08	21 Q. And the form 34, what is that?	10:12	21 performance?
10:08	22 A. We call it a counseling form. The best I	10:12	22 A. Yes.
10:08	23 can describe, it's -- it's either a repeat occurrence	10:12	23 Q. The same as the 34 and 42 we talked about?
10:08	24 of a problem that was previously documented on a 42 or	10:12	24 A. Yeah. The 34 is not -- is not for
10:08	25 if it's -- it might be of a serious enough nature that	10:12	25 complimenting the good performance.

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10:12	1 So the 42 is -- is basically just to	10:15	1 responsibilities with respect to that?
10:12	2 document good and bad.	10:15	2 A. Well, generally the captain and the senior
10:12	3 The -- the 34 is typically just to	10:15	3 should kind of get together on grading the employees.
10:12	4 document repetitive or a more serious bad performance.	10:16	4 And I don't recall if there is a spot for a captain and
10:12	5 Q. Is one of the purposes of the performance	10:16	5 a senior captain or if it just says station officer. I
10:12	6 evaluation to provide the employee's supervisors with	10:16	6 don't recall who signs it.
10:12	7 information about their performance?	10:16	7 Q. You mentioned that your signature was an
10:12	8 A. Yes.	10:16	8 approval of the performance evaluation. Did you have
10:12	9 Q. And would that include -- strike that.	10:16	9 the opportunity to provide input as part of the
10:13	10 And did the performance evaluations	10:16	10 evaluation?
10:13	11 also provide you, as the district chief, with	10:16	11 A. I suppose if I did not agree with the
10:13	12 information about the employee's performance?	10:16	12 evaluation, I could return it to the -- the grading
10:13	13 A. Yes.	10:16	13 officer and talk to him about it, but yeah.
10:13	14 Q. Do you expect your captains to use the	10:17	14 Q. What steps, if any, did you undertake to
10:13	15 performance evaluation process to make you aware of any	10:17	15 make sure that an employee's performance evaluation was
10:13	16 problems with an employee's performance?	10:17	16 reflective of their actual performance when you were
10:13	17 A. As the initial, you know, hey, here is a	10:17	17 the district chief?
10:13	18 problem, no. You know, the performance evaluation	10:17	18 A. As it relates to the firefighters and the
10:13	19 should reflect that employee's performance, you know.	10:17	19 EOs, I -- I don't really have a role in making sure
10:13	20 If there is a problem that the	10:17	20 that their -- that their evaluation matches their
10:13	21 supervisor can't fix, then I would expect, you know,	10:17	21 performance? Was that the question?
10:13	22 the supervisor would say, hey, I am having a problem	10:17	22 Q. Yeah. You would rely on the captains to do
10:13	23 with this employee.	10:17	23 that. Is that fair?
10:13	24 Q. So if there is just a generalized poor level	10:17	24 A. Yeah, because the station officers work with
10:14	25 of performance, that would be reflected on the -- that	10:17	25 their people. I don't.
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10:14	1 could be reflected on the performance evaluation, as	10:17	1 Q. But if you saw something that was
10:14	2 well, right?	10:17	2 inconsistent with your own experience with that
10:14	3 A. Yes.	10:17	3 employee, is that something you would raise with the
10:14	4 Q. There is rating of 1 to 5, I think?	10:17	4 captains?
10:14	5 A. Yes.	10:17	5 A. I could.
10:14	6 Q. Now, when you were district chief over ARFF,	10:18	6 MS. COHEN: Jeremy, we have been going
10:14	7 what was your responsibility with regard to the	10:18	7 about an hour. Could we take a break?
10:14	8 performance evaluations for the members who worked at	10:18	8 MR. MONTEIRO: Could I ask two more
10:14	9 the airport stations?	10:18	9 questions?
10:14	10 A. I would sign them as the district chief.	10:18	10 MS. COHEN: Sure.
10:14	11 Q. You were the reviewing authority. Is that	10:18	11 BY MR. MONTEIRO:
10:14	12 the right terminology?	10:18	12 Q. You mentioned that you would -- you could
10:14	13 A. Well, let's see. I don't remember really	10:18	13 send the evaluation back to your captains if there was
10:14	14 what the -- what the different levels are.	10:18	14 a specific concern you have?
10:15	15 Yeah. Reviewing authority sounds	10:18	15 A. Right.
10:15	16 familiar.	10:18	16 Q. Would that -- would you have a meeting with
10:15	17 Q. Okay. And by signing the performance	10:18	17 them, or how would that play out?
10:15	18 evaluations, you were approving them. Is that right?	10:18	18 A. It could be a face-to-face meeting. It
10:15	19 A. I guess you could say, yeah.	10:18	19 could be a phone call.
10:15	20 Q. Did the -- did the captain have the first	10:18	20 Q. And could the evaluation then be revised
10:15	21 responsibility for filling out the performance	10:18	21 based on your input?
10:15	22 evaluation for the firefighter and the	10:18	22 A. If the station officer was pretty sure that,
10:15	23 engineer/operator?	10:19	23 no, this is my evaluation of an employee, then, again,
10:15	24 A. Yes.	10:19	24 that officer works with that employee. I don't.
10:15	25 Q. And what was the senior captain's	10:19	25 Q. You would defer to the captain?

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10:19	1	A. I would.	10:35	1	Q. And I want to direct your attention to the
10:19	2	MR. MONTEIRO: Okay. Let's take a	10:35	2	final page under the reviewing authority figure.
10:19	3	break.	10:35	3	Is that your signature, sir?
10:19	4	THE VIDEOGRAPHER: 10:18, off record.	10:35	4	A. Yes, it is.
10:19	5	(Recess from 10:19 to 10:33 a.m.)	10:35	5	Q. You reviewed and signed the evaluation on
10:32	6	THE VIDEOGRAPHER: 10:32, back on	10:35	6	March 31st of 2009?
10:33	7	record, disk 2.	10:35	7	A. Yes.
10:33	8	BY MR. MONTEIRO:	10:35	8	Q. Based on your earlier testimony, it's likely
10:33	9	Q. We are back on the record after a break.	10:35	9	that either -- well, let me back up for a minute.
10:33	10	When we left, when we ended, we were talking about	10:35	10	There is two other signatures above
10:33	11	performance evaluations, and I will pick up with that.	10:35	11	yours. Do you recognize those signatures?
10:33	12	Ms. Draycott, Jane Draycott, was	10:36	12	A. Yes. First one looks like Henschel. I
10:33	13	assigned to station 54 from 2008 to 2010. Is that	10:36	13	can't tell who the senior captain's signature is.
10:33	14	correct, approximately?	10:36	14	Q. Based on your earlier testimony, the senior
10:33	15	A. Yeah, that sounds -- yes.	10:36	15	captain of station 54 in March of 2009 was captain
10:33	16	Q. She was on the A shift?	10:36	16	Tamez?
10:33	17	A. Yes.	10:36	17	A. I believe so.
10:33	18	Q. Her captain was Erich Henschel. Is that	10:36	18	Q. Do you know who prepared this evaluation?
10:33	19	correct?	10:36	19	A. No.
10:33	20	A. Probably. I mean, right now Henschel works	10:36	20	Q. Do you recall raising any concerns about
10:33	21	on 99 on the B. I don't know when -- I don't recall	10:36	21	this evaluation when it was presented to you?
10:33	22	when he moved out of -- you know, I just know Henschel	10:36	22	A. No.
10:34	23	as being at 99.	10:36	23	Q. Do you agree with your captain's evaluation
10:34	24	Q. Okay. And the senior captain, you told us	10:36	24	of Ms. Draycott's performance?
10:34	25	earlier, was senior captain Tamez during that time	10:36	25	A. Yes. I mean, I don't -- I don't agree or --
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10:34	1	period?	10:36	1	if something looks out of line, I would raise the issue
10:34	2	A. Right, right.	10:36	2	with the captain. You know, this could have been lower
10:34	3	Q. I will show you --	10:37	3	or higher, and I would have still signed it.
10:34	4	MR. MONTEIRO: Will you mark that?	10:37	4	Q. If there was anything that you didn't agree
10:34	5	(Exhibit 1 marked.)	10:37	5	with, you would have raised it with one of captains.
10:34	6	BY MR. MONTEIRO:	10:37	6	Is that correct?
10:34	7	Q. Chief McAteer, I am showing you what's been	10:37	7	A. Yes.
10:34	8	marked as deposition exhibit 1 to your deposition. For	10:37	8	Q. So as of March 31st of 2009, do you agree
10:34	9	identification purposes it bears the Bates numbers	10:37	9	that this evaluation accurately reflected
10:34	10	HOU 2120 through 2123.	10:37	10	Ms. Draycott's performance as a firefighter?
10:34	11	If you would please review exhibit 1	10:37	11	A. It's really for the officers to evaluate.
10:34	12	and let me know when you have had chance to complete	10:37	12	Q. Did you -- when you signed this evaluation,
10:34	13	your review.	10:37	13	did you see anything in the evaluation that did not
10:34	14	A. Okay.	10:37	14	accurately reflect Ms. Draycott's performance based on
10:35	15	Q. Chief, what is deposition exhibit 1?	10:37	15	your knowledge?
10:35	16	A. It's a performance evaluation.	10:37	16	A. You know, typically I don't go page by page
10:35	17	Q. Who is it for?	10:38	17	and -- you know, so -- I did not read every comment on
10:35	18	A. Ena Draycott.	10:38	18	every firefighter.
10:35	19	Q. And is that Jane Draycott?	10:38	19	Q. Would you agree that the evaluation does not
10:35	20	A. Yes.	10:38	20	reflect any problems with her performance from her
10:35	21	Q. Was this for -- was this an evaluation of	10:38	21	captain's standpoint?
10:35	22	Ms. Draycott's 2008 performance --	10:38	22	A. Yes.
10:35	23	A. Yes.	10:38	23	Q. Would you agree that the evaluation does not
10:35	24	Q. -- as a firefighter?	10:38	24	reflect any problems with Ms. Draycott's physical
10:35	25	A. Yes.	10:38	25	ability to perform her duties as a firefighter?

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10:38	1	A. Correct.	10:41	1	A. One copy in HR and I think another copy to
10:39	2	Q. Would you agree that the evaluation does not	10:41	2	the employee.
10:39	3	reflect any problems with Ms. Draycott's mental	10:41	3	Q. When you say the employee, are you referring
10:39	4	abilities to perform her job as a firefighter?	10:41	4	to an employee's file, or are you referring to the
10:39	5	A. There is not really a rating for that, but I	10:41	5	employee actually?
10:39	6	don't see anything on here that would indicate.	10:42	6	A. Generally, it's kept in the employee's file.
10:39	7	Q. Let's look at page 4 under suggestions for	10:42	7	Q. What is HR that you reference?
10:39	8	career development.	10:42	8	A. Human resources.
10:39	9	A. Okay.	10:42	9	Q. Where is that located currently, if you
10:39	10	Q. Is that something that you would have	10:42	10	know?
10:39	11	reviewed in 2009? I know you said you don't typically	10:42	11	A. There are parts of it in several places.
10:39	12	review the entire document.	10:42	12	Physically, I don't know where the repository for all
10:39	13	A. Right. I might have.	10:42	13	of these is.
10:39	14	Q. Do you have any recollection of reviewing	10:42	14	Q. Do you know -- I am sorry. I cut you off.
10:39	15	the suggestions for career development on exhibit 1	10:42	15	Go ahead.
10:39	16	back in 2009?	10:42	16	A. No. There are HR reps over at fire
10:39	17	A. That's 10 years ago, and there is 160 of	10:42	17	department headquarters at Smith Street. I think back
10:40	18	these every year to review. So no, I don't recall	10:42	18	in '08, '09 Dart Street was the headquarters.
10:40	19	specifically, no.	10:42	19	Q. Do you know who would know where
10:40	20	Q. It says: Firefighter Draycott is ready for	10:42	20	Ms. Draycott's performance for 2009 is currently
10:40	21	promotion. She should make every effort to qualify for	10:42	21	located?
10:40	22	a promotion, which would qualify her for positions as	10:43	22	A. If it's not at -- I said HR. It says here
10:40	23	increased responsibility.	10:43	23	records section. If it's not there or if it's not in
10:40	24	Did I read that correct?	10:43	24	her personnel file, then, no, I don't know.
10:40	25	A. Yes.	10:43	25	Q. Did HFD -- Ms. Draycott also worked for some
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10:40	1	Q. Do you know whose suggestion that was?	10:43	1	period of time, at least in 2010, at station -- within
10:40	2	A. No. As I stated, I don't know who filled	10:43	2	ARFF. Is that accurate?
10:40	3	this out.	10:43	3	A. You know, I don't recall. There were many
10:40	4	Q. It would have been one of the captains. Is	10:43	4	transfers. I don't recall when she was transferred
10:40	5	that correct?	10:43	5	from 54, off, back, somewhere else, back, or whether --
10:40	6	A. Yes.	10:44	6	I know for a time she was working in 99. I don't
10:40	7	Q. Either captain Henschel or senior captain	10:44	7	recall if that was a transfer or if that was an agreed
10:40	8	Tamez?	10:44	8	what we call a fill in.
10:40	9	A. Yes.	10:44	9	Q. Well, assuming that she worked within ARFF
10:40	10	Q. So one of her supervisors believed that she	10:44	10	in 2010 --
10:40	11	was ready for promotion as of 2009. Is that fair?	10:44	11	A. Okay.
10:40	12	A. That's what it says, yes.	10:44	12	Q. -- should a performance evaluation for her
10:40	13	Q. That would be promotion to the	10:44	13	work in 2010 have been completed?
10:40	14	engineer/operator position?	10:44	14	A. Yes. That's the department standard.
10:40	15	A. Correct.	10:44	15	Q. And again, if one was completed, you think
10:40	16	Q. And is it fair to say that you had no reason	10:44	16	it would be either in HR or in her employee file. Is
10:41	17	to disagree with this recommendation?	10:44	17	that right?
10:41	18	A. Yes.	10:44	18	A. Yes.
10:41	19	Q. Do you know if the fire department would	10:44	19	Q. You can give that document back to the court
10:41	20	have completed a performance evaluation for	10:44	20	reporter. I am done with it.
10:41	21	Ms. Draycott for the work she performed in 2009?	10:45	21	Are you familiar with an HFD rule and
10:41	22	A. I don't know. I mean, it should have	10:45	22	regulation pertaining to coaching and counseling?
10:41	23	happened.	10:45	23	A. Yes.
10:41	24	Q. And if there was one completed, where would	10:45	24	(Exhibit 2 marked.)
10:41	25	it be found currently?	10:45	25	Q. Chief McAteer, I am showing you what's been

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10:45	1 marked as deposition exhibit 2. For identification	10:49	1 A. There is an acknowledgement box to check,
10:45	2 purposes it bears the Bates numbers 2856 to 2860.	10:49	2 but -- but typically, at daily meetings, roll calls, or
10:46	3 A. I am sorry. What?	10:49	3 maybe one of the trainings that month would be what's
10:46	4 MS. COHEN: It's at the bottom of the	10:49	4 online.
10:46	5 page.	10:49	5 And then online would also say, you
10:46	6 BY MR. MONTEIRO:	10:49	6 know, review these guidelines and these procedures.
10:46	7 Q. There is numbers at the bottom of the page.	10:49	7 And so at some point if you don't get it on your own,
10:46	8 I just identified those for the record.	10:49	8 it should be reviewed with you during one of the
10:46	9 A. Oh, okay. Oh, okay.	10:50	9 training classes.
10:46	10 Q. Can you identify what this document is, sir?	10:50	10 Q. Okay. If we can look at page 3 of this
10:46	11 A. The Houston Fire Department coaching,	10:50	11 document, which starts -- which is entitled 6.00
10:46	12 counseling, and motivating guideline.	10:50	12 guidelines, do you see that?
10:46	13 Q. This was in effect as of August 1st of 2005.	10:50	13 A. Yes.
10:46	14 Is that correct?	10:50	14 Q. Let's look at 6.01. It says: Should it
10:46	15 A. Yes.	10:50	15 become necessary for an officer to institute steps
10:46	16 Q. What is this document?	10:50	16 necessary to amend action or inaction, the guidelines
10:46	17 A. Basically department guidance to really all	10:50	17 set forth shall be strictly adhered to.
10:46	18 the membership on what should happen to coach and	10:50	18 Did I read that right?
10:46	19 counsel employees.	10:50	19 A. Yes.
10:46	20 Q. Okay. And we talked earlier about the use	10:50	20 Q. So the use of the word shall, is it your
10:46	21 of a form 42 and 43. You explained a little bit about	10:50	21 understanding that the officer has no discretion to go
10:47	22 your understanding of that.	10:50	22 outside of these guidelines; these are the guidelines
10:47	23 Is this the guidance that kind of	10:50	23 to follow?
10:47	24 formalizes the use of those documents?	10:50	24 A. Yes. Shall is -- oh, what's the right word?
10:47	25 A. I would say so, yes.	10:50	25 It's -- it's not discretionary.
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10:47	1 Q. Are you familiar with this document?	10:50	1 Q. Got it. And why is it important for the
10:47	2 A. Reasonably.	10:50	2 officer to strictly adhere to these guidelines?
10:47	3 Q. You have seen it before?	10:51	3 A. For consistency.
10:47	4 A. Yes, I have seen it before. Yes. Over the	10:51	4 Q. What sorts of things might happen if an
10:47	5 years it's gone through many, many versions.	10:51	5 officer fails to adhere to these guidelines?
10:47	6 Q. That's a good point. So when the fire	10:51	6 A. In terms of impact to morale or what
10:47	7 department revises its policies, how are the members	10:51	7 should -- what would happen to him if he doesn't?
10:47	8 made aware of those revisions?	10:51	8 Q. Well, as I understand, this is the procedure
10:47	9 A. Basically the department sends it out and	10:51	9 that the officer follows in coaching, counseling, and
10:47	10 expects it to be read, understood, and complied with.	10:51	10 motivating the subordinate. Is that right?
10:47	11 Q. Is it sent to every member?	10:51	11 A. Yes.
10:48	12 A. I believe it is. I believe the -- the	10:51	12 Q. So you know, what sorts of things might
10:48	13 e-mail is an all employee e-mail.	10:51	13 happen to a subordinate if the officer fails to follow
10:48	14 Q. So those are -- those are currently	10:51	14 these guidelines?
10:48	15 distributed by e-mail?	10:51	15 A. I am still not exactly sure -- so what would
10:48	16 A. Yes.	10:51	16 happen to the employee if the officer fails to follow
10:48	17 Q. Did that process change at some point?	10:51	17 the guideline?
10:48	18 A. I don't recall when e-mails started in the	10:51	18 Q. Yeah. I mean, you said that -- you
10:48	19 fire department, but I remember chief Kinealy. He was	10:52	19 testified that it's important for the officer to follow
10:48	20 2000, 2001. We received things by e-mail at that time.	10:52	20 these guidelines for consistency purposes, right?
10:48	21 I think he was one of the first to use kind of an	10:52	21 A. Yes, departmental consistency so that, in
10:48	22 electronic signature. I just -- I just remember that.	10:52	22 general, behaviors are -- are treated equally,
10:49	23 Q. Are the members required to provide any sort	10:52	23 uniformly.
10:49	24 of certification that they reviewed the revised	10:52	24 Q. Okay. So -- so one -- if an officer fails
10:49	25 guidelines, or how is that documented, if you know?	10:52	25 to follow these guidelines, a subordinate can feel like

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10:52	1 they haven't been treated equally. Is that fair?	10:56	1 Or you know, the person could, you
10:52	2 A. Yeah, yeah.	10:56	2 know, also say: Wow, that really happened? Okay.
10:52	3 Q. These provide some sort of objective	10:56	3 Were there witnesses? You know, and try to see how
10:52	4 criteria by which to document an employee's	10:56	4 strong is your -- is your case, captain? Is it going
10:52	5 performance?	10:57	5 to come down you are alone in the room and he said/he
10:52	6 A. Right.	10:57	6 said? Just try to -- try to sort out exactly what are
10:52	7 Q. Let's look at page 4 under section D, which	10:57	7 we looking at. What did you do to try to -- try to
10:52	8 discusses the procedure for relief of duty. If you can	10:57	8 correct this guy? You know, did he just say this, and
10:53	9 just review that section, I am going to ask you a	10:57	9 you are immediately calling me? Have you even tried
10:53	10 couple questions.	10:57	10 talking to him?
10:53	11 A. Okay.	10:57	11 So that's what the call to a supervisor
10:53	12 Q. What does it mean to relieve a member of	10:57	12 should try to determine, what are we really looking at,
10:53	13 duty?	10:57	13 what really happened, what steps did you take to try to
10:53	14 A. Okay. You -- if one of these situations are	10:57	14 correct it.
10:53	15 present, you know, the officer checks with the	10:57	15 Q. Thank you. So the captain -- would the
10:53	16 supervisor: Hey, this person is out of control. He is	10:57	16 captain go to the senior captain, or would they go to
10:53	17 doing whatever, you know.	10:57	17 you as the district chief in this type of -- if a
10:53	18 You have to describe what's actually	10:57	18 situation like this arose, as their supervisor?
10:53	19 going on and get your supervisor's buy-in that, yes, I	10:57	19 A. Oh, if it was at station 54, I would expect
10:54	20 agree with you; this person needs to be relieved of	10:58	20 the senior captain would be involved.
10:54	21 duty.	10:58	21 Q. Okay. Could the senior captain get you
10:54	22 You tell the member: We are relieving	10:58	22 involved or make you aware of what's going on?
10:54	23 you of duty. We will advise -- we will advise you by	10:58	23 A. He should, yes.
10:54	24 whatever means, phone call, e-mail, what the next step	10:58	24 Q. He should?
10:54	25 is, but you know, you are not to remain at work. Don't	10:58	25 A. Because honestly, I am going to call my boss
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10:54	1 come back to work until -- until you hear from whatever	10:58	1 and you know: Hey, just letting you know this is
10:54	2 authority that you are cleared to return to work.	10:58	2 what's going on. I agree with the captain. What do
10:54	3 Q. And what does the -- so you said that the	10:58	3 you think?
10:54	4 officer has to get their supervisor's buy-in. How does	10:58	4 Q. This is a -- this is something that you
10:54	5 that play out? Is it --	10:58	5 would elevate to your supervisor, that level of
10:54	6 A. Well, all right. So there is -- there is	10:58	6 seriousness?
10:55	7 some situation going on at the station. You know, the	10:58	7 A. Oh, absolutely, yes.
10:55	8 officer has told this member, hey, knock it off.	10:58	8 Q. Is there some sort of form that would be
10:55	9 And you know, the member is just out of	10:58	9 completed or --
10:55	10 control: You know, no, I am not going to do that. You	10:58	10 A. No. The guidance I got from staff services
10:55	11 can't make me.	10:58	11 was, okay, just send us an e-mail that you are -- that
10:55	12 So we can't run the station with one	10:58	12 you are relieving this person. Give us their payroll
10:55	13 member saying: No, I ain't going to do anything you	10:58	13 number so they have something in their records.
10:55	14 say.	10:59	14 Q. Under section D2 of the policy, it says: If
10:55	15 All right. So because there are so	10:59	15 someone -- it says one of grounds for relief of duty is
10:55	16 many different people -- officers are individuals.	10:59	16 that if they are not physically or mentally capable of
10:55	17 They are people. There are different thresholds that	10:59	17 performing their duties.
10:55	18 people see as, oh, that crossed over the line.	10:59	18 A. Right.
10:56	19 And so the intent is to try to -- try	10:59	19 Q. What does it mean if someone is not
10:56	20 to overcome, get a second opinion. So the supervisor	10:59	20 physically -- a member is not physically capable of
10:56	21 listens to the situation, and you know, like, sometimes	10:59	21 performing their duties?
10:56	22 it's a -- are you sure you are really maybe not reading	10:59	22 A. Well, for example, someone with medical
10:56	23 this wrong, maybe overreacting? Because to me, that	10:59	23 restrictions, not supposed to lift anything over
10:56	24 really doesn't rise to the level of relieving somebody	10:59	24 10 pounds. Well, that's inconsistent with the job.
10:56	25 of duty.	10:59	25 You know, the person says: My back

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10:59	1 hurts. I can't do anything, but you know -- but I am	11:04	1 that allege violations of fire department rules,
11:00	2 here. I will answer the phones.	11:04	2 regulations, orders, bulletins, directives or
11:00	3 No, that's inconsistent with your job	11:04	3 guidelines. Is that correct?
11:00	4 as a truck operator.	11:04	4 A. Right.
11:00	5 Q. Okay. And then what does it mean if someone	11:04	5 Q. So this document provides HFD members with
11:00	6 is mentally incapable of performing their duties?	11:04	6 information in terms of how they should make a
11:00	7 A. Well, everyone has probably got their own	11:04	7 complaint?
11:00	8 answer, but to me, what that means is a person is out	11:04	8 A. Yes.
11:00	9 of control, screaming, or to the other side, so	11:04	9 Q. And one of complaints that it provides
11:00	10 withdrawn that they will not respond to -- to anyone	11:04	10 members -- one of the complaints that -- it provides
11:00	11 verbally. You know, just anything other than -- if you	11:04	11 members with information as to how to make such a
11:00	12 are dispatched on an emergency, will you get up, put	11:04	12 complaint would be a discrimination complaint. Is that
11:00	13 your gear up, get on the apparatus, and respond and	11:04	13 fair?
11:01	14 perform as expected?	11:04	14 A. Yes.
11:01	15 Q. You can return that to the court reporter.	11:04	15 Q. Did you receive any training on this policy
11:01	16 We are done with that.	11:04	16 when it was issued in 2005?
11:01	17 I want to shift our focus to the fire	11:05	17 A. Not that I recall.
11:01	18 department's complaint policies and procedures that	11:05	18 Q. Do you know if your captains would have
11:01	19 were in effect while you were district chief. I am	11:05	19 received any training on the policy when it was issued
11:01	20 going to have this marked as exhibit 3, please.	11:05	20 in 2005?
11:01	21 (Exhibit 3 marked.)	11:05	21 A. No. Just like other guidelines, it's
11:02	22 MS. COHEN: Did you give me one?	11:05	22 distributed, read it, understand it, and comply.
11:02	23 MR. MONTEIRO: Oh, I am sorry. Sorry	11:05	23 Q. Okay. If you know, when a captain is first
11:02	24 about that.	11:05	24 elevated to -- when a captain is first elevated from
11:02	25 BY MR. MONTEIRO:	11:05	25 engineer/operator, do they receive any kind of
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11:02	1 Q. Chief McAteer, I am showing you what's been	11:05	1 supervisory training?
11:02	2 marked as deposition exhibit 3. For identification	11:05	2 A. Now they do. I don't remember when that
11:02	3 purposes it's marked as HOU 2821 through 2826.	11:06	3 started. It's called newly promoted officer training,
11:02	4 A. Okay.	11:06	4 NPO.
11:02	5 Q. Have you seen this document before, sir?	11:06	5 Q. And prior to the implementation of the NPO
11:02	6 A. Yes.	11:06	6 training, do you know if there was any training for
11:02	7 Q. What is it?	11:06	7 newly promoted captains?
11:02	8 A. Houston Fire Department complaint guideline.	11:06	8 A. I don't believe so. It was generally
11:02	9 Q. This was in effect as of August 1st of 2005.	11:06	9 understood that as you -- as you work, you become
11:02	10 Is that correct?	11:06	10 familiar with the duties and responsibilities of the
11:02	11 A. Yes.	11:06	11 next rank up. Essentially, pay attention. There was
11:02	12 Q. And is this the fire department's	11:06	12 not organized -- the newly promoted officer training.
11:02	13 discrimination complaint policy as of August 1st, 2005?	11:07	13 Q. It sounds like it was on-the-job training, a
11:03	14 A. Discrimination complaint -- it could be	11:07	14 fair characterization of that?
11:03	15 discrimination. It could be bad behavior. It could	11:07	15 A. Yes, yes, right.
11:03	16 be -- I guess it's not just the discrimination	11:07	16 Q. If we can go back to the document and look
11:03	17 complaint policy. I don't remember when mayor's orders	11:07	17 at 6.01, subsection B.
11:03	18 came out. But there was something about discrimination	11:07	18 A. All right.
11:03	19 on a mayor's order.	11:07	19 Q. And it says: Quote, employees confronted
11:03	20 Q. Okay. Let's look at page 3.	11:07	20 with serious complaints that cannot be resolved
11:03	21 A. Okay.	11:07	21 immediately, that allege criminal violations, and/or
11:03	22 Q. Under 6.01, it talks about receiving	11:07	22 complaints of alleged discrimination based on race,
11:03	23 complaints, and sections B and C discuss the	11:07	23 color, gender, religion and/or national origin, shall
11:03	24 obligations for employees who receive complaints of	11:07	24 instruct the complaining party to forward their
11:04	25 criminal violations or that allege discrimination or	11:07	25 complaint to the Office of Inspector General, unquote.

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11:07	1	Did I read that right?	11:11	1	what constitutes a serious complaint?
11:07	2	A. Yes.	11:11	2	A. No. I think we have had occasional
11:07	3	Q. So what's your understanding of an officer's	11:11	3	discrimination classes, but I believe it's left to the
11:08	4	responsibilities under the section of the policy	11:12	4	officer's good judgment.
11:08	5	once -- upon notice of discrimination complaint?	11:12	5	Q. Do you know if captains received any
11:08	6	A. Well, that he should advise the complaining	11:12	6	training as to what constitutes a serious complaint?
11:08	7	party to, you know, that's serious. You should forward	11:12	7	A. I believe they would have had the same
11:08	8	that to -- to the OIG.	11:12	8	occasional discrimination classes, you know, sexual
11:08	9	Q. OIG, okay. We talked about this earlier.	11:12	9	harassment classes, but -- like, I am describing, they
11:08	10	There is the -- this section uses the word shall again.	11:12	10	are not training that say, well, this is minor; this is
11:08	11	Is that again nondiscretionary?	11:12	11	serious.
11:08	12	A. Yes.	11:12	12	Q. Okay. So how would you determine -- make
11:08	13	Q. Would this policy apply to an officer who	11:12	13	the determination whether a complaint is serious or not
11:08	14	learns of a discrimination complaint?	11:13	14	under this policy?
11:08	15	A. Yes. I think it says employees confronted	11:13	15	A. Well, probably my best judgment.
11:08	16	with. Now, you know -- you know, so when you say when	11:13	16	Q. Would you have to conduct some level of
11:09	17	an officer learns of, you are describing an employee	11:13	17	initial investigation to determine the level of
11:09	18	confronts the officer with this happened to me. Is	11:13	18	seriousness?
11:09	19	that the question?	11:13	19	A. Okay. So again, we are talking about an
11:09	20	Q. Yeah.	11:13	20	employee personally bringing a complaint?
11:09	21	A. Okay, yes. You know, that officer shall	11:13	21	Q. Right.
11:09	22	instruct the complaining party.	11:13	22	A. Okay, all right.
11:09	23	Q. And if a firefighter reports a	11:13	23	Q. Or making you aware of a complaint.
11:09	24	discrimination complaint to their captain, the captain	11:13	24	A. Aware, okay. Generally, I -- I consult my
11:09	25	is then to direct the firefighter to OIG?	11:13	25	supervisor and say, hey, what do you think, you know.
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11:09	1	A. Yes.	11:14	1	I -- I think it should probably be investigated, but
11:09	2	Q. The provision uses the terminology serious	11:14	2	we -- we don't have the ability to -- we, officers --
11:09	3	complaints. Do you see that?	11:14	3	to just initiate an investigation, you know, because
11:09	4	A. Yes.	11:14	4	that's a particular -- that term means a particular
11:09	5	Q. What is your understanding of what a serious	11:14	5	thing.
11:10	6	complaint is?	11:14	6	Q. Sure. And I don't mean -- I guess I didn't
11:10	7	A. Well, that's up to the receiver's	11:14	7	mean like some sort of formal OIG investigation.
11:10	8	interpretation.	11:14	8	But you know, if an incident occurs and
11:10	9	Q. So it's a judgment call by the officer?	11:14	9	an employee comes to you and says, this happened, I
11:10	10	A. Yes. Now, an example of a serious complaint	11:14	10	think it was discriminatory, and these two people were
11:10	11	that cannot be resolved immediately alleging criminal	11:14	11	there and saw it, in determining the level of
11:10	12	violations, hey, that employee just took a baseball bat	11:14	12	seriousness, would you kind of informally maybe speak
11:10	13	and broke out every window of my car.	11:14	13	with the other folks who might have witnessed what
11:10	14	You know, and then by the same token on	11:15	14	happened?
11:10	15	discrimination, you know, the employee would have to	11:15	15	A. You know, generally, anytime --
11:10	16	say this person broke out all of my windows because I	11:15	16	discrimination is a trigger word. And generally, me --
11:10	17	am a protected class or -- you know, because of I am	11:15	17	most of the officers that I talk to, as soon as that
11:11	18	female or -- you know, so that should key in the	11:15	18	word is said, hey, you need to go -- you know, the
11:11	19	officer's mind, okay, so this is discrimination, yes.	11:15	19	place for your complaint is OIG.
11:11	20	Okay. So I should -- you know, that's an OIG thing.	11:15	20	Q. What if they don't use the word
11:11	21	Q. Okay. Do you know if there are any policies	11:15	21	discrimination?
11:11	22	or procedures in place that define what a serious	11:15	22	A. Well, if what they are describing and -- and
11:11	23	complaint is?	11:15	23	as the receiving officer -- so are you saying that they
11:11	24	A. Not that I am aware of.	11:15	24	did this because of your gender, your race, you know,
11:11	25	Q. Have you been provided any training as to	11:15	25	then if the answer is yes, then you need to go to OIG.

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11:16	1	Q. Okay. Going back to the policy, it says	11:19	1	A. Yes.
11:16	2	complaints -- it uses the terminology complaints that	11:19	2	Q. If an employee reports numerous problems at
11:16	3	allege discrimination. Do you see that?	11:19	3	work and they believe it's because of their gender,
11:16	4	A. Yes.	11:19	4	could that be a complaint of discrimination?
11:16	5	Q. Are you aware of any policies or procedures	11:20	5	A. Yes.
11:16	6	in place that define what a complaint that alleges	11:20	6	Q. How about if an employee reports unfair
11:16	7	discrimination is?	11:20	7	treatment at work and they believe it's because of
11:16	8	A. It's been awhile since I read the mayor's	11:20	8	their gender? Could that be a complaint that alleges
11:16	9	order. That may have examples.	11:20	9	discrimination?
11:16	10	Q. Which mayor's order are you referring to?	11:20	10	A. Yes.
11:16	11	A. I can't name it. I would have to look it	11:20	11	Q. If an employee reports inappropriate
11:16	12	up.	11:20	12	behaviors at work and they believe they are occurring
11:16	13	Q. Was it in place in 2005? Do you know?	11:20	13	because of their gender, could that be a complaint that
11:16	14	A. I don't remember if there was a mayor's	11:20	14	alleges discrimination?
11:17	15	order before mayor Parker's order that came out. I	11:20	15	A. Yes.
11:17	16	don't know if she revised or if she added a new one.	11:20	16	Q. At the end of the day is it a judgment call
11:17	17	Q. When was mayor Parker in charge of the city,	11:20	17	by the officer?
11:17	18	approximately?	11:20	18	A. I don't believe so. If what the employee is
11:17	19	A. Let's see. I think she came after Bill	11:20	19	telling you says that this is happening because of my
11:17	20	White.	11:20	20	gender, I think the officer should direct that employee
11:17	21	Q. Is 2010 about right, sound about right?	11:20	21	to OIG.
11:17	22	A. It could be. '08, '09, or '10.	11:20	22	Q. What if the employee reports harassment, but
11:17	23	Q. Okay.	11:21	23	doesn't say I believe this is happening because of my
11:17	24	A. Okay.	11:21	24	gender? At that point does the officer then need to
11:17	25	Q. Have you been provided any training as to	11:21	25	make a determination as to whether or not the person is
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11:17	1	how to identify what constitutes a complaint that	11:21	1	making a complaint of discrimination?
11:17	2	alleges discrimination?	11:21	2	A. Okay. I am sorry. I guess you kind of lost
11:17	3	A. Like I said, other than the occasional HR	11:21	3	me on that.
11:18	4	class, sexual harassment, that's about it.	11:21	4	MR. MONTEIRO: Let me ask the court
11:18	5	Q. And I think you said earlier, but the	11:21	5	reporter to read it back for you.
11:18	6	complaining party doesn't have to use the word	11:21	6	(THE FOLLOWING WAS READ:
11:18	7	discrimination. Is that right?	11:20	7	"QUESTION: What if the employee
11:18	8	A. Yeah, that's correct. If what you are	11:21	8	reports harassment, but doesn't say I believe this is
11:18	9	describing fits, you know, the -- walks like a duck,	11:21	9	happening because of my gender? At that point does the
11:18	10	talks like a duck, then, you know, are you describing a	11:21	10	officer then need to make a determination as to whether
11:18	11	duck? Then, yes.	11:21	11	or not the person is making a complaint of
11:18	12	Q. For you, what are some indicators that --	11:21	12	discrimination?")
11:18	13	which lead you to believe that somebody was raising a	11:21	13	A. Okay. So the employee reports harassment.
11:18	14	discrimination complaint?	11:22	14	I think generally the officer would ask
11:18	15	A. Well, if what they are saying seems to be	11:22	15	questions, okay, when, who, okay, why do you think they
11:18	16	out of the norm or if they are describing disparate	11:22	16	are doing that?
11:19	17	treatment given -- I don't know -- unfavorable work	11:22	17	Now, again, if it -- if it looks and
11:19	18	assignments, more work assignments than the other crew	11:22	18	sounds like they are reporting discrimination, then I
11:19	19	members, and -- and it's because of my race, gender,	11:22	19	would expect myself or any officer to advise the
11:19	20	whatever.	11:22	20	employee to go to OIG.
11:19	21	Q. Could a complaint of harassment be a	11:22	21	BY MR. MONTEIRO:
11:19	22	complaint that alleges discrimination?	11:22	22	Q. So the officer -- under the scenario I
11:19	23	A. Sir?	11:22	23	described, the officer should kind of flesh out, you
11:19	24	Q. Could a series of harassing events be a	11:22	24	know, what exactly the employee is raising and what
11:19	25	complaint that alleges discrimination?	11:22	25	they believe is -- why they believe what's happening is

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11:22	1 happening. Is that correct?	11:26	1 A. Yes. Now, I would also expect the officer
11:22	2 A. Yes.	11:26	2 to maybe make an announcement or you know, hey,
11:22	3 Q. The policy also uses the terminology cannot	11:26	3 reminder, make sure that you don't ever do this or you
11:23	4 be resolved immediately. Do you see that?	11:26	4 always do that.
11:23	5 A. Yes.	11:26	5 Q. Now, once the officer directs the employee
11:23	6 Q. What does that mean to you?	11:26	6 to OIG, should the officer follow up with the employee
11:23	7 A. There are so many possibilities. If	11:27	7 to make sure they have gone to OIG?
11:23	8 something can be resolved immediately, one of the fire	11:27	8 A. To make sure that they filed?
11:23	9 stations in the city that doesn't have separate	11:27	9 Q. That -- yeah, that they went to OIG?
11:23	10 quarters, maybe doesn't have shower curtains, and the	11:27	10 A. Let's -- that's not really -- once -- once
11:23	11 complaint is raised by a female firefighter that, you	11:27	11 something goes to OIG, there is this cloak of secrecy
11:23	12 know, gee, this -- I don't have any privacy, well, then	11:27	12 and confidentiality.
11:23	13 if -- if they could run down to Wal-Mart and pick up a	11:27	13 Basically, no, it's not the officer's
11:24	14 shower curtain.	11:27	14 role to essentially follow up on an OIG complaint,
11:24	15 Q. They have resolved the issue?	11:27	15 because he has given the employee direction: This is
11:24	16 A. Right, right.	11:27	16 what the policy says, so that's what I am advising you.
11:24	17 Q. Does it mean that the issue doesn't reoccur	11:27	17 Q. Should the officer follow up with the
11:24	18 or the problem doesn't reoccur?	11:27	18 employee to find out if the issues are reoccurring once
11:24	19 A. Well, resolving that the first time doesn't	11:28	19 they have directed them to OIG?
11:24	20 guarantee that it won't reoccur, I suppose.	11:28	20 A. I suppose. There is not a requirement to,
11:24	21 Q. Okay.	11:28	21 but I would think -- I would think good practice would
11:24	22 A. But you would like to think that you heard	11:28	22 just -- checking in with your crew members, you know,
11:24	23 of a problem and you acted to resolve it.	11:28	23 hey, how are things going.
11:24	24 Q. Should it be unlikely to occur again?	11:28	24 Q. And a discrimination complaint under this
11:24	25 A. It should be.	11:28	25 policy can be either written or verbal. Is that
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11:24	1 Q. So if the same issue were to occur on	11:28	1 correct?
11:24	2 multiple occasions, would you agree that the issue	11:28	2 A. At some point I think it needs to be
11:24	3 hadn't been resolved immediately?	11:28	3 written. It can maybe be -- initially be verbal.
11:24	4 A. Well, if there is reoccurrence, then it	11:28	4 Q. And I am referring to an employee who makes
11:25	5 wasn't a permanent resolution.	11:28	5 a report of discrimination to their captain, not
11:25	6 Q. What if a complaint is made and the alleged	11:28	6 someone who goes to OIG.
11:25	7 wrongdoer cannot be identified? Does that mean that	11:29	7 A. Oh, okay, right. The initial report.
11:25	8 there is no way to resolve the complaint immediately?	11:29	8 Q. Yeah, the initial complaint, that could be
11:25	9 A. Okay. That's -- that seems like kind of a	11:29	9 verbal or written?
11:25	10 vague -- okay.	11:29	10 A. Yes, yeah.
11:25	11 There is a complaint of a wrongdoing.	11:29	11 Q. If an officer is aware that an employee has
11:25	12 The wrongdoer cannot be identified.	11:29	12 gone to OIG, should the officer make that -- keep that
11:25	13 Q. Right.	11:29	13 confidential?
11:25	14 A. Now, through a -- through an investigation?	11:29	14 A. Yes.
11:25	15 Q. No. Just by the officer. Again, I am	11:29	15 Q. Do you know if there were any other policies
11:26	16 talking about the receiving point.	11:29	16 other than exhibit -- exhibit 3 in place governing how
11:26	17 A. All right.	11:30	17 complaints of discrimination should be handled in the
11:26	18 Q. So if an officer is made aware of a	11:30	18 2008-2010 time period?
11:26	19 discrimination complaint, but the employee can't	11:30	19 A. Other than that mayor's order that I
11:26	20 identify who the wrongdoer is, I am assuming the	11:30	20 referred to.
11:26	21 officer can't resolve the issue immediately under those	11:30	21 Q. Nothing else?
11:26	22 circumstances?	11:30	22 A. No.
11:26	23 A. Okay, okay, right, yes, right.	11:30	23 Q. That you are aware of?
11:26	24 Q. So under those circumstances the complainant	11:30	24 A. Not that I can recall, correct.
11:26	25 should be directed to OIG?	11:30	25 Q. Now, if we go down to 6.01, subsection C --

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11:30	1 again, I am back on page 3.	11:33	1 Q. Is it possible for a complaint -- is it
11:30	2 A. All right.	11:34	2 possible for a complaint to allege discrimination as
11:30	3 Q. -- this says: Quote, employees confronted	11:34	3 well as a violation of the fire department's rules and
11:30	4 with serious complaints that cannot be resolved	11:34	4 regulations?
11:30	5 immediately, that allege violations of Houston Fire	11:34	5 A. Yes.
11:30	6 Department rules, regulations, orders, bulletins,	11:34	6 Q. So this policy requires a discrimination
11:30	7 directives, or guidelines shall instruct the	11:34	7 complaint to go to OIG and a violation of the rules and
11:30	8 complaining party to forward their complaint to the HFD	11:34	8 regulations to go to staff services.
11:30	9 staff services, unquote.	11:34	9 How would an officer determine where to
11:30	10 Did I read that correctly?	11:34	10 send the complainant under that scenario?
11:30	11 A. Yes.	11:34	11 A. Right. Basically, in practice, you just --
11:30	12 Q. So what is your understanding of an	11:34	12 you send the employee to advise them to go to staff
11:30	13 officer's responsibilities under this section?	11:34	13 services.
11:31	14 A. Well, kind of similar to the last, you know,	11:34	14 Staff services will look at your
11:31	15 what you are alleging sounds serious; you should direct	11:34	15 complaint, okay? There is a discrimination part of
11:31	16 that complaint to staff services.	11:34	16 this, and there is rules and regs. So you know, they
11:31	17 Q. And the allegation would be a violation of	11:34	17 may say, okay, OIG, you have got this one.
11:31	18 the rules, regulations, orders, bulletins, directives,	11:35	18 But -- so there does not have to be two
11:31	19 or guidelines. Is that right?	11:35	19 separate complaints filed. One -- one will be directed
11:31	20 A. Yes.	11:35	20 and handled.
11:31	21 Q. We talked about this under the earlier	11:35	21 Q. Okay. So the employee will be sent to staff
11:31	22 section, but the use of the terminology serious	11:35	22 services, and staff services would kind of sort out how
11:31	23 complaint, would you apply kind of the same definition	11:35	23 the complaint is investigated?
11:31	24 that we talked about earlier to this section?	11:35	24 A. Correct. You know, there is always EEOC,
11:31	25 A. Yes. It's up to kind of the officer's good	11:35	25 which is, you know, another reporting input.
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11:32	1 judgment, discernment, past experience. You know,	11:35	1 Q. And again, where you have a firefighter
11:32	2 years ago at a different station a similar thing came	11:35	2 being directed to staff services regarding a complaint
11:32	3 up and that person didn't realize their approach was	11:35	3 about the -- a violation of the fire department's
11:32	4 offensive or insulting. So you know, have you talked	11:35	4 rules, regulations, orders, bulletins, directives, or
11:32	5 to this person?	11:35	5 guidelines, should their captain follow up with them to
11:32	6 You know, I mean, there are so many	11:36	6 make sure that the issue is not reoccurring?
11:32	7 possibilities of offenses that fall under this, it's	11:36	7 A. Just kind of like the last answer, I think
11:32	8 hard to pick one. And through my experience, I have --	11:36	8 it would be good practice, but there is not a
11:32	9 I have seen a lot of them that -- so trying to answer	11:36	9 requirement.
11:32	10 your question, but --	11:36	10 Q. Is that something that you would want your
11:32	11 Q. I understand.	11:36	11 captains to do?
11:32	12 A. -- serious is interpretive.	11:36	12 A. Yes. It makes sense.
11:32	13 Q. Got it. You are not aware of any specific	11:36	13 Q. This section also uses the same terminology
11:33	14 policies or procedures that define what serious	11:36	14 about cannot be resolved immediately. Do you see that?
11:33	15 complaint is under this subsection, right?	11:36	15 A. Yes.
11:33	16 A. Correct.	11:36	16 Q. And would you kind of use the same criteria
11:33	17 Q. And you don't have -- you haven't received	11:36	17 that we talked about under subsection B for applying
11:33	18 any particularized training as to what constitutes a	11:36	18 subsection C?
11:33	19 serious issue under this section?	11:36	19 A. In general, yes.
11:33	20 A. Not that I recall. The rules and regs	11:37	20 Q. And apart from exhibit 3 do you know if
11:33	21 change over time, you know. There was a behavior	11:37	21 there were any other policies or procedures in place at
11:33	22 manual. Then that was modified.	11:37	22 the fire department in the 2008-2010 time period
11:33	23 I can't remember what time frames, but	11:37	23 governing how complaints alleging a violation of fire
11:33	24 like I said, the methods of reporting and what should	11:37	24 departments rules, regulations, orders, bulletins,
11:33	25 be reported shift a little bit over time.	11:37	25 directives, or guidelines should be processed?

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11:37	1 A. No, not other than the mayor's order that I	11:43	1 A. I don't remember it, you know, because -- I
11:37	2 referenced.	11:43	2 just remember hearing about it. Allison Stein said
11:38	3 Q. You can return that to the court reporter.	11:43	3 that, you know, she called me and let me know that
11:38	4 I am going to shift my focus now to	11:43	4 there was going to be an investigation.
11:38	5 some of the complaints regarding fire station 54 when	11:43	5 And you know, I said okay.
11:38	6 you were the district -- when you were district chief	11:44	6 Q. This is -- I mean, is this basically a
11:38	7 over that.	11:44	7 report of the investigator's investigation into this
11:38	8 A. Okay.	11:44	8 complaint?
11:38	9 Q. Do you remember being interviewed by an OIG	11:44	9 A. Yes. So I would not have received this.
11:38	10 investigator regarding an anonymous complaint submitted	11:44	10 Q. Okay. Do you know if it would have been the
11:38	11 by a firefighter's wife regarding the conditions of the	11:44	11 practice of OIG in 2007 to make you aware, as the
11:38	12 female restroom at station 54 back in 2006?	11:44	12 district chief over station 54, of its investigation?
11:38	13 A. I vaguely remember something about that	11:44	13 A. My experience is that they don't inform me
11:38	14 complaint. I -- I don't remember being involved with	11:44	14 of -- much of anything.
11:39	15 it myself. It's possible, but I don't remember talking	11:44	15 Q. Did they inform you of the results of the
11:39	16 to OIG or anybody.	11:44	16 investigation?
11:39	17 (Exhibit 4 marked.)	11:44	17 A. No.
11:39	18 Q. Chief McAteer, I am showing you what's been	11:44	18 Q. Okay. Do you know who would have been
11:39	19 marked as deposition exhibit 4. For identification	11:45	19 informed of the results of this investigation at the
11:39	20 purposes it bears the Bates numbers of HOU 8991 through	11:45	20 fire department?
11:40	21 HOU 9006.	11:45	21 A. It would have been whoever was in charge of
11:40	22 A. Okay.	11:45	22 staff services, and that person would report to the
11:40	23 Q. Are you able to identify this record?	11:45	23 fire chief. So I assume I would find out whatever
11:40	24 MS. COHEN: Can you give him a few	11:45	24 they, the fire chief, wanted me to know, hey, from now
11:40	25 minutes to look at it?	11:45	25 on, do this to prevent this from reoccurring.
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11:40	1 A. Looks like it's from the Office of Inspector	11:45	1 Q. So if the fire chief had recommendations in
11:40	2 General.	11:45	2 terms of practices that should be changed, he would
11:40	3 Okay. It looks like it must have been	11:45	3 have instructed you to make those in response to this
11:40	4 investigated by OIG, the female bathroom complaint.	11:45	4 complaint?
11:41	5 Should I read the whole thing?	11:45	5 A. Yes.
11:41	6 BY MR. MONTEIRO:	11:45	6 Q. Do you have any memory of chief Boriskie
11:41	7 Q. If you want to, you can. I am going to ask	11:45	7 doing so?
11:41	8 you some questions. I can certainly direct you to	11:45	8 A. No. But I remember talking to chief Snell
11:41	9 where my questions are, but if you would like to review	11:46	9 and -- because I remember saying: Look, I have put out
11:41	10 it, you are welcome to do so.	11:46	10 notices that males shall not enter the female quarters
11:42	11 A. Okay.	11:46	11 or restrooms.
11:42	12 Q. Have you had a chance to review exhibit 4?	11:46	12 You know, and he goes: Well, what
11:42	13 A. Yes.	11:46	13 about to inspect and clean daily?
11:42	14 Q. Does it help refresh your recollection	11:46	14 Well, I expect that to happen.
11:43	15 regarding the anonymous complaint that was made in	11:46	15 But you know, apparently the
11:43	16 2006 --	11:46	16 interpretation was, no, we should not ever go in there.
11:43	17 A. Yes.	11:46	17 So I -- I modified the directive to: You shall inspect
11:43	18 Q. -- regarding the condition of the women's	11:46	18 and clean all areas of the fire station daily, and then
11:43	19 bathroom?	11:46	19 if you are a male, stay out of the women's quarters and
11:43	20 A. Yes.	11:46	20 restroom, period.
11:43	21 Q. Do you know if you -- if we can look at 8996	11:46	21 Q. And I think what you are explaining is maybe
11:43	22 through 8998, which is where you are at right now --	11:47	22 at the bottom of page 8997, the second to last
11:43	23 A. Okay.	11:47	23 paragraph, very last sentence says: Chief McAteer
11:43	24 Q. -- do you know if you ever saw this	11:47	24 stated he would institute a policy that the female
11:43	25 interoffice correspondence from Mr. Jensen?	11:47	25 restroom be inspected for cleanliness by the oncoming

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11:47	1 captains at station 54.	11:50	1 there is an allegation doesn't --
11:47	2 Was that your response to this	11:50	2 Q. Right.
11:47	3 complaint?	11:50	3 A. -- doesn't mean that it's factual.
11:47	4 A. Yes, because I believe I had already spoken	11:50	4 Q. I understand.
11:47	5 to chief Snell just about the situation, and he was --	11:50	5 A. So I don't know what the --
11:47	6 well, but if you told them all to stay out and they	11:50	6 Q. I am just asking you about the complaint
11:47	7 took you literally, then when would -- when would the	11:51	7 itself.
11:47	8 bathroom be cleaned?	11:51	8 A. Okay, right.
11:47	9 Huh.	11:51	9 Q. So the complaint alleges, right, urine on
11:47	10 Q. Now, this complaint, if we go to 9001 --	11:51	10 the countertops and smells like sewage?
11:48	11 A. All right.	11:51	11 A. Okay.
11:48	12 Q. -- have you seen -- have you seen this	11:51	12 Q. And -- and that men were going in the dorm
11:48	13 document before, the anonymous complaint?	11:51	13 in the bathroom, right? That's the other allegation?
11:48	14 A. Not that I recall. That would not have	11:51	14 A. Yes.
11:48	15 been -- staff services is very confidential. If I was	11:51	15 MR. MONTEIRO: Okay. Let's go off the
11:48	16 not a complainant or a direct respondent, then I get no	11:51	16 record for a minute.
11:48	17 documents.	11:51	17 THE VIDEOGRAPHER: 11:50, off record.
11:48	18 Q. Would the pages that we reviewed earlier	11:51	18 (Recess from 11:41 a.m. to 12:03 p.m.)
11:48	19 reflect that you had spoken with the investigator and	12:02	19 THE VIDEOGRAPHER: 12:02, back on
11:48	20 met with him or her at least a couple times, right,	12:03	20 record, disk 3.
11:48	21 regarding this issue?	12:03	21 BY MR. MONTEIRO:
11:48	22 A. Yes.	12:03	22 Q. Chief McAteer, when we left off we were
11:48	23 Q. So would the investigator at least have	12:03	23 looking at page 9001 which is the anonymous complaint?
11:48	24 given you some -- enough information to understand what	12:03	24 A. Yes.
11:48	25 the issue was?	12:03	25 Q. If I understand your testimony right, you
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11:48	1 A. Yeah. Would have described, well -- the	12:03	1 don't have a recollection of actually seeing this
11:49	2 complaint is about the conditions, you know, looks --	12:03	2 complaint, right?
11:49	3 complaint was about urine and the smell of sewage.	12:03	3 A. Correct.
11:49	4 Q. And do you remember receiving that	12:03	4 Q. Okay. In terms of the allegations that are
11:49	5 information from the investigator?	12:03	5 contained in here, do you remember hearing that there
11:49	6 A. I really don't remember talking to -- I	12:03	6 had been an allegation that there was urine on the
11:49	7 think it says Jensen and Stein. I mean, I remember	12:03	7 countertop, wall, and sink of the women's dorm back in
11:49	8 Allison Stein calling me. So I -- I don't think she	12:03	8 2006?
11:49	9 came out. I don't remember her coming out to the fire	12:03	9 A. I don't remember exactly what I heard, but
11:49	10 station, you know.	12:03	10 something about urine on the countertops.
11:49	11 She may have, and I was -- because this	12:03	11 Q. Okay. How about the allegation that the
11:49	12 was at 54, and I was at -- officing in 99. If she	12:04	12 facility smelled like raw sewage? Do you remember
11:49	13 didn't call and say, hey, can you come over and meet me	12:04	13 hearing that back in 2006?
11:50	14 over here, then I -- I don't know where I would have	12:04	14 A. Yes.
11:50	15 met with Bo Jensen, whether that was 54 or you need to	12:04	15 Q. And how about the allegation that the dorm
11:50	16 come to my office at 99. I don't remember.	12:04	16 smelled like urine? Do you remember hearing that
11:50	17 Q. Now, is it fair to say the complaint is a	12:04	17 allegation back in 2006?
11:50	18 much bigger issue than just lack of cleanliness? Would	12:04	18 A. No. I don't remember the -- no.
11:50	19 you agree?	12:04	19 Q. And then, finally, the allegation that male
11:50	20 A. Well --	12:04	20 firefighters are allowed or using the women's dorm or
11:50	21 Q. I mean, the person is not complaining that	12:04	21 women's bathroom, do you remember hearing about that
11:50	22 the bathroom hasn't been cleaned, right?	12:04	22 allegation back in 2006?
11:50	23 A. Well, right, okay. And there is a	12:04	23 A. Specific to this, no. You know, I think
11:50	24 perception now, did the investigation conclude that	12:05	24 later on, you know, I did remember hearing allegations,
11:50	25 yes, that was urine on the countertop? I mean, because	12:05	25 evidence that males had been in the women's dorm.

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12:05	1 Q. If we go back to 8996, which was the	12:08	1 2006?
12:05	2 investigative report -- I think it's four pages back or	12:08	2 A. Yes. I don't recall the meeting, but...
12:05	3 so. You want to go forward.	12:08	3 Q. You don't have any reason to believe it
12:05	4 A. Oh, 8996?	12:08	4 didn't happen?
12:05	5 Q. Yeah.	12:08	5 A. No, I don't object to it.
12:05	6 A. Okay.	12:08	6 Q. Going down two paragraphs, the first
12:05	7 Q. Now, this -- this reflects that I think	12:08	7 sentence says: My investigation confirms the fact that
12:05	8 it's -- Allison Stein is reporting that she spoke with	12:08	8 there has been evidence of male employees using the
12:05	9 you on September 26 and informed you of an	12:08	9 female restroom at station 54.
12:06	10 investigation -- of this investigation. Is that right?	12:08	10 Did the -- did the investigator make
12:06	11 A. Yes.	12:08	11 you aware of this?
12:06	12 Q. And then on -- you testified earlier you	12:08	12 A. Not that I recall. It was -- I don't
12:06	13 weren't entirely clear about whether you met with	12:08	13 receive the results of investigations.
12:06	14 Ms. Stein.	12:08	14 Q. I understand. I am just -- we went through
12:06	15 If you go to the third paragraph down,	12:08	15 kind of a timeline where you spoke with the
12:06	16 exhibit 4 reflects that on September 27th, she went to	12:08	16 investigator a couple times. I didn't know if the
12:06	17 fire station 54 and met with chief McAteer along with a	12:09	17 investigator would have mentioned that during one of
12:06	18 number of other individuals. She says: I interviewed	12:09	18 these meetings. That's why I was asking.
12:06	19 each of the above personnel and discussed the	12:09	19 And had you heard -- had you heard that
12:06	20 allegations of this case.	12:09	20 men were using the women's restroom at station 54 prior
12:06	21 Do you see that?	12:09	21 to this complaint coming in?
12:06	22 MS. COHEN: Objection; mischaracterizes	12:09	22 A. No. I think as a -- I think as I answered a
12:06	23 the exhibit.	12:09	23 little while ago, no, I was not aware of complaints.
12:06	24 MR. MONTEIRO: Where is the	12:09	24 Q. If we flip back to 9001, this is the
12:06	25 mischaracterization?	12:10	25 anonymous complaint, right, that we reviewed earlier?
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12:06	1 MS. COHEN: This is not from Allison	12:10	1 A. Okay.
12:06	2 Stein.	12:10	2 Q. And if you go to the page before that, it
12:06	3 MR. MONTEIRO: His testimony was	12:10	3 looks like a fax cover sheet from Office Depot --
12:06	4 Allison Stein was the investigator.	12:10	4 sorry. The page after that, it should be 9002.
12:06	5 MS. COHEN: One of investigators.	12:10	5 A. Okay.
12:06	6 MR. MONTEIRO: Okay.	12:10	6 Q. Do you recognize the fax number, either of
12:06	7 BY MR. MONTEIRO:	12:10	7 the fax numbers? Are those the fax numbers for
12:06	8 Q. Do you remember if you met with Allison	12:10	8 station 54, do you know, back in 2006?
12:06	9 Stein or WC Jensen back in -- in connection with this?	12:10	9 A. No. I don't recognize the number. The fire
12:07	10 A. Right. I don't recall meeting with Allison	12:10	10 station phone numbers were area code 281 and 233
12:07	11 Stein.	12:10	11 something.
12:07	12 Possibly Jensen because I -- you know,	12:10	12 Q. Was there a fax machine at the station? Do
12:07	13 clearly I met with an investigator, so you know, if it	12:11	13 you know?
12:07	14 was -- if his name was Jensen, then okay.	12:11	14 A. There probably was. This fax number is the
12:07	15 Q. So you would agree that you met with an	12:11	15 City number. 713-247 is a City number.
12:07	16 investigator on September 27th and that investigator	12:11	16 Q. Okay, thank you. Do you know who submitted
12:07	17 interviewed you and discussed the allegations of the	12:11	17 this anonymous complaint?
12:07	18 case. Is that fair?	12:11	18 A. No, I have no idea.
12:07	19 A. Yes.	12:11	19 Q. You never found out?
12:07	20 Q. And then if we go to the following page, the	12:11	20 A. No.
12:07	21 first sentence says: I went to -- on October 24th I	12:11	21 Q. Now, if we go back to the investigative
12:07	22 went to station 99 and met with firefighter L. Woods	12:11	22 report on 8997, if you go to the second to the last
12:07	23 and met again with district chief McAteer.	12:11	23 paragraph, there is a sentence in there which says:
12:07	24 Would you agree you met with the	12:11	24 Chief McAteer informed me that there is a rule that no
12:08	25 investigator again back at station 99 on October 24th,	12:11	25 male firefighters enter the female's restrooms or

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12:11	1 dormitories at any station at any time.	12:15	1 Q. So this document is dated February 18th of
12:11	2 Do you see that?	12:15	2 2007, correct?
12:11	3 A. Yes.	12:15	3 A. Right.
12:11	4 Q. Was that -- do you know who put that rule in	12:15	4 Q. Is that the date that the bulletin would
12:12	5 place?	12:15	5 have been issued?
12:12	6 A. I did.	12:15	6 A. Yes.
12:12	7 Q. When?	12:15	7 Q. Around that time?
12:12	8 A. I don't remember.	12:16	8 A. Yes.
12:12	9 Q. Why did you put that rule in place?	12:16	9 Q. Okay. Does this -- does reviewing exhibit 5
12:12	10 A. Made sense to -- it seemed like -- I think	12:16	10 help refresh your memory in terms of when you first
12:12	11 there were -- I think we moved in '03. They were	12:16	11 issued a bulletin or directive that men should stay out
12:12	12 brand-new fire stations, and sometimes crew members,	12:16	12 of the women's dorm?
12:12	13 you know, just want to be alone, you know. Hey, I	12:16	13 A. No, not really.
12:12	14 don't want to hang out in the lounge or the group dorm,	12:16	14 Q. Is it helpful that it was issued -- is it
12:12	15 and there is no females on today, so I will just hang	12:16	15 helpful to you that it was issued on February 18th of
12:13	16 out and watch TV in the women's dorm by myself.	12:16	16 2007?
12:13	17 And so -- so at some point after 2003,	12:16	17 A. Helpful in what way?
12:13	18 you know, it must have been enough of an issue that,	12:16	18 Q. In terms of establishing a timeline.
12:13	19 okay, let's create some ground rules here. You know,	12:16	19 A. Well, this -- this is probably not the first
12:13	20 there are separate quarters and so respect them as	12:16	20 bulletin.
12:13	21 such.	12:16	21 Q. Okay. Because as we looked at exhibit 4,
12:13	22 Q. And how did you go about putting that rule	12:16	22 you are -- you have told the investigator that there is
12:13	23 in place?	12:16	23 a rule that no male firefighters enter the female's
12:13	24 A. Through a bulletin that I typed out and	12:17	24 restrooms or dormitories at any station at any time,
12:13	25 distributed.	12:17	25 correct?
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12:13	1 Q. Okay.	12:17	1 A. Yes.
12:13	2 A. We call them ARFF bulletins.	12:17	2 Q. And you had that conversation with an
12:13	3 Q. Now, I am familiar with an ARFF bulletin	12:17	3 investigator either in September or October of 2006,
12:13	4 that was issued in February of 2007, and we will look	12:17	4 according to exhibit 4?
12:14	5 at that a bit later.	12:17	5 A. Okay.
12:14	6 Is that what you are referring to, or	12:17	6 Q. And the bulletin was issued in February
12:14	7 do you know if you issued a bulletin prior to that,	12:17	7 of '07, right?
12:14	8 because this complaint was 2006?	12:17	8 A. Uh-huh.
12:14	9 A. As I said, I don't remember when the first	12:17	9 Q. So you were referencing some other directive
12:14	10 ARFF bulletin and then when the subsequent	12:17	10 you had issued prior to September or October of 2006.
12:14	11 clarification went out. I don't remember. I would	12:17	11 Is that fair?
12:14	12 have to see the bulletin.	12:17	12 A. Yes.
12:14	13 Q. Okay. Well, let me show it to you and maybe	12:17	13 Q. Do you have any memory of what form that
12:14	14 it will help clarify the timeline.	12:17	14 directive took when you issued it?
12:14	15 A. We are talking about over 10 years ago.	12:17	15 A. Well, it probably would have been an ARFF
12:14	16 Q. I understand.	12:17	16 bulletin, but I don't have the stack of ARFF bulletins
12:14	17 (Exhibit 5 marked.)	12:17	17 here to go through.
12:15	18 A. I am 60 years old.	12:17	18 Now, it would -- it would have also
12:15	19 Q. So I am showing you what's been marked as	12:17	19 been covered in officer meetings.
12:15	20 deposition exhibit 5. And for identification purposes	12:17	20 Q. Have the ARFF bulletins from 2006 been
12:15	21 it has a Bates number of HOU 6037.	12:18	21 preserved?
12:15	22 A. Okay.	12:18	22 A. I'm not sure.
12:15	23 Q. Have you had a chance to review this	12:18	23 Q. Go ahead.
12:15	24 document?	12:18	24 A. No. Go ahead.
12:15	25 A. Okay.	12:18	25 Q. I was just going to ask: Where would those

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12:18	1 be located?	12:22	1 A. Right.
12:18	2 A. In binders.	12:22	2 Q. And I asked you where that might be, and you
12:18	3 Back during that time, I would have	12:22	3 said in binders.
12:18	4 kept it on my -- on my computer, but since, you know,	12:22	4 So I am just -- I am just asking for
12:18	5 the assignments changed, I don't have any of that	12:22	5 clarification on what you meant by in binders.
12:18	6 information back then. You know, assignments changed,	12:22	6 A. Well, generally the fire stations print out
12:18	7 work locations, computers, physical computers	12:22	7 and preserve orders, special bulletins, bulletins, ARFF
12:18	8 themselves, changed. And so I -- I don't have them.	12:22	8 bulletins, guidelines -- anything that comes out that
12:18	9 Q. You have reviewed your computer for	12:22	9 we are expected to read, understand, and comply with is
12:18	10 documents related to this matter, right?	12:22	10 printed out and put in a binder. So -- and so you
12:19	11 A. Not really. I mean, when -- if I was	12:22	11 know, I was just trying to understand. You are talking
12:19	12 requested to produce a document, then I would review	12:22	12 about my computer.
12:19	13 the computer, yes.	12:22	13 Q. Right.
12:19	14 Q. Have you done that?	12:22	14 A. And then when you said where is that binder,
12:19	15 A. I haven't been requested to produce any	12:23	15 I was just trying to clarify do you mean in my office
12:19	16 documents.	12:23	16 where my computer is.
12:19	17 Q. Do you know if you were asked to give	12:23	17 So -- but at fire stations, generally
12:19	18 access -- if you were asked to provide access to your	12:23	18 the binders -- and there are many, many binders. They
12:19	19 computer to anyone to review it for responsive	12:23	19 could be in the bookcase, in the kitchen. They could
12:19	20 documents in this litigation?	12:23	20 be in the bookcase in the captain's room. If the
12:19	21 A. Yes. I think some -- I believe some City	12:23	21 station has a training room, the training material
12:20	22 legal people came out to my office and searched and	12:23	22 binders would be in there.
12:20	23 downloaded onto a thumb drive.	12:23	23 Q. Okay. So one place that the bulletin could
12:20	24 Q. And without telling me when that -- or	12:23	24 be is in each of the stations where -- that the
12:20	25 without telling me any conversations you had, do you	12:23	25 bulletin was applicable to in a binder. Is that right?
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12:20	1 know when that occurred?	12:23	1 A. Yeah. Bulletins are applicable to all fire
12:20	2 A. I don't recall.	12:23	2 stations, so every fire station should have bulletins,
12:20	3 Q. And I am sorry. Have you -- have you looked	12:23	3 orders, everything printed out.
12:20	4 for any other bulletins related to -- any other	12:23	4 Now, there is -- as far as retention of
12:20	5 bulletins you issued related to access to the women's	12:23	5 documents, that's -- it seemed like some years ago
12:20	6 dorms on your computer?	12:24	6 there was a -- in 34 years I have seen one records
12:20	7 A. No, I haven't -- I haven't looked for	12:24	7 management document come out about how long to retain
12:20	8 things. No.	12:24	8 things. And generally the maximum length I saw that I
12:20	9 Q. Do you know if there are -- if those old --	12:24	9 remember from that document was five years.
12:20	10 do you know if you kept those bulletins in your	12:24	10 Q. Now, this is an ARFF bulletin, right?
12:21	11 computer?	12:24	11 A. Yes.
12:21	12 A. Well, like I said, my computer has changed.	12:24	12 Q. So does that mean it's only public to the
12:21	13 I have had several assignments since 2010.	12:24	13 four airport stations?
12:21	14 I think -- I think some of --	12:24	14 A. Yes, correct.
12:21	15 apparently some of the old stuff might have been	12:24	15 Q. Okay. So the crew at -- if you issued a
12:21	16 located by City legal, but you know, I -- I don't go	12:24	16 bulletin in 2006, the crew at station 54 or the officer
12:21	17 searching my computer for 10-year-old documents. Some	12:24	17 at station 54 would have printed it out and put it in a
12:21	18 may exist as paper in a binder.	12:24	18 binder?
12:21	19 Q. Let's talk about the binders. Where would	12:24	19 A. Yeah, right, and hopefully make the members
12:21	20 those binders be kept currently?	12:24	20 aware of it.
12:21	21 A. Are you talking about in my office or --	12:24	21 Q. Right. And did you -- did you print out
12:21	22 Q. Well, earlier you testified -- I asked	12:24	22 your bulletins and print them in binders in your
12:21	23 you -- you said that you had probably issued an ARFF	12:25	23 office, as well, or in the administrative office?
12:22	24 bulletin prior to one that was issued in February	12:25	24 A. We did for a while. And then in the
12:22	25 of '07, right?	12:25	25 administrative offices we just decide, well, we are

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12:25	1	running out of space. You know, we will just catalog	12:29	1	A. Well, okay. As the last line, you know, I
12:25	2	these -- you know, in our computers and -- so....	12:29	2	remember bringing up that this fire station has a
12:25	3	Q. Do you know when that occurred?	12:29	3	recurring sewage backup problem, you know. Could that
12:25	4	A. No. At some point. '08, '09, '10,	12:29	4	have been the sewage smell that the anonymous complaint
12:25	5	somewhere in there.	12:29	5	was about?
12:25	6	Q. Okay. If we go back to exhibit 4, 8997,	12:29	6	And that's part of -- part of my job is
12:26	7	page 8997, about halfway down it says: Several	12:30	7	to follow up with airport maintenance to -- hey, is
12:26	8	incidents of unclean conditions in the female restroom	12:30	8	there a solution to this recurring sewage backup
12:26	9	at station 54 have been reported to the captains at	12:30	9	problem?
12:26	10	station 54.	12:30	10	Q. Was that a stationwide problem or just
12:26	11	Do you see that?	12:30	11	limited to the women's dorm or bathroom area?
12:26	12	A. Oh, here it is. The big paragraph?	12:30	12	A. Oh, no. It bubbles up in the kitchen day
12:26	13	Q. Yeah, sorry.	12:30	13	room, both restrooms, so it's -- it's still a problem
12:26	14	A. Yeah, I see it, yes.	12:30	14	today.
12:26	15	Q. Have any of your captains reported to you	12:30	15	Q. Was there -- so you said you followed up
12:26	16	that they had received several incidences of reports of	12:30	16	with the -- some entity. I didn't catch what you said.
12:26	17	incidences of unclean conditions in the female restroom	12:30	17	A. Houston Airport System maintenance group.
12:26	18	at station 54?	12:30	18	Q. You followed up with the Houston airport
12:26	19	A. I don't remember if they had at this point	12:31	19	sewer maintenance group?
12:26	20	in time reported complaints.	12:31	20	A. Houston Airport Systems is the City of
12:27	21	Q. Is that something that you would have	12:31	21	Houston's aviation department.
12:27	22	expected to hear about from your captains?	12:31	22	Q. Followed up with them regarding the sewage
12:27	23	A. If there were complaints, yes. And -- you	12:31	23	backup problem?
12:27	24	know, I -- I would have asked: Well, captain, why are	12:31	24	A. Yes, right.
12:27	25	the conditions in your fire station? You know, why	12:31	25	Q. Okay. And do you know if anything was done
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12:27	1	don't -- why aren't you aware of that?	12:31	1	to address the issue?
12:27	2	Q. And then if we go back to the last	12:31	2	A. Typically it's only when the sewage backs
12:27	3	sentence -- sorry -- the last sentence in that big	12:31	3	up. They come out and clear the line and roll up the
12:27	4	paragraph, it talks about -- which we reviewed earlier,	12:31	4	equipment and leave. So our crews have to clean up,
12:27	5	it says chief McAteer stated that he would institute a	12:31	5	disinfect.
12:27	6	policy that the female restrooms be inspected for	12:31	6	Q. And that's not an isolated -- that's not an
12:27	7	cleanliness by the oncoming captains in station 54.	12:31	7	issue that's isolated to the women's dorm or bathroom,
12:28	8	How did you institute that policy?	12:31	8	right?
12:28	9	A. I believe, like I stated, that there was an	12:31	9	A. No.
12:28	10	ARFF bulletin that would have clarified no males ever	12:31	10	Q. Okay. So one of the things you did is you
12:28	11	go in the female quarters, but I can't give you the	12:31	11	reached out to the Houston Airport System about the
12:28	12	date or the reference number for that. And we would	12:31	12	sewage backup.
12:28	13	have covered it in officer meetings.	12:31	13	Was there anything else you did to try
12:28	14	Q. And did that same policy require the	12:31	14	to prevent the conditions that were complained of from
12:28	15	oncoming captain to inspect the female restroom at the	12:32	15	occurring again?
12:28	16	start of their shift?	12:32	16	A. Meet with the officers and you know: Hey,
12:28	17	A. Yes. You know, so that -- you would have	12:32	17	you know, you-all are physically here. You are
12:28	18	the earliest notice if there was something wrong.	12:32	18	directly responsible for the conditions at your fire
12:28	19	Q. That would be at the start of the shift	12:32	19	station.
12:28	20	which would be, like, 6:30 in the morning?	12:32	20	So you know, just -- it's an ongoing
12:29	21	A. Correct.	12:32	21	caution to the officers to be engaged.
12:29	22	Q. And apart from instituting the inspection	12:32	22	Q. Did you instruct anyone to take any action
12:29	23	policy that we just talked about, were there any other	12:32	23	in response to the complaint?
12:29	24	steps you took to prevent the conditions that were	12:32	24	A. Well, I didn't receive this. So I was aware
12:29	25	complained about in exhibit 4 from reoccurring?	12:33	25	of it from the investigator, and like I am describing,

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<p>12:33 1 meet with the officers, caution them about being on top</p> <p>12:33 2 of what's going on at your fire station, the</p> <p>12:33 3 conditions, you know. You know, it needs to be as</p> <p>12:33 4 clean as possible.</p> <p>12:33 5 Q. Okay. Anything else you remember doing?</p> <p>12:33 6 A. No.</p> <p>12:33 7 Q. Did you take any steps to control access to</p> <p>12:33 8 the women's restroom or dorm at station 54?</p> <p>12:33 9 MS. COHEN: Objection; asked and</p> <p>12:33 10 answered.</p> <p>12:33 11 BY MR. MONTEIRO:</p> <p>12:33 12 Q. You can answer.</p> <p>12:33 13 A. I don't know how to -- I don't know how to</p> <p>12:33 14 restrict access. I mean, it's a bathroom door.</p> <p>12:34 15 Q. Well, let's break it down.</p> <p>12:34 16 So let's talk about the dorm first, the</p> <p>12:34 17 women's dorm at 54. There is -- there is locks on the</p> <p>12:34 18 door, right?</p> <p>12:34 19 A. Yes.</p> <p>12:34 20 Q. Interior locks. Is that right?</p> <p>12:34 21 A. Yes.</p> <p>12:34 22 Q. No exterior locks, correct?</p> <p>12:34 23 A. Right.</p> <p>12:34 24 Q. So --</p> <p>12:34 25 A. There is a key on the exterior.</p>	<p>12:35 1 the key --</p> <p>12:35 2 A. Okay.</p> <p>12:36 3 Q. -- could you have controlled access to the</p> <p>12:36 4 dorm by putting a key lock on that door?</p> <p>12:36 5 MS. COHEN: Objection; calls for</p> <p>12:36 6 speculation.</p> <p>12:36 7 A. Okay. Could I have changed the lock to put</p> <p>12:36 8 a key on there? Is that the question?</p> <p>12:36 9 BY MR. MONTEIRO:</p> <p>12:36 10 Q. A key lock on there, on the exterior?</p> <p>12:36 11 A. Well, then, who would have keys?</p> <p>12:36 12 Q. Could you have given those keys to either</p> <p>12:36 13 your -- to the officers to distribute to the women?</p> <p>12:36 14 A. Well, I suppose it's a possibility, but</p> <p>12:36 15 the -- you know, I think the locks were on the doors,</p> <p>12:36 16 you know, interior operated locks, so that the women in</p> <p>12:36 17 the dorm could have some privacy. You know, at night</p> <p>12:37 18 to make sure, you know, airport employee coming through</p> <p>12:37 19 didn't, you know, invade that space.</p> <p>12:37 20 Q. Okay. So you have received some reports</p> <p>12:37 21 that men are going into the women's dorm, right, around</p> <p>12:37 22 this time period?</p> <p>12:37 23 A. Well, I think as I have --</p> <p>12:37 24 Q. That's why you issued the bulletin?</p> <p>12:37 25 A. We are referencing this, okay? And I</p>
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<p>12:34 1 Q. There is a key?</p> <p>12:34 2 A. Well, a keyhole where you -- where you would</p> <p>12:34 3 insert a key to unlock -- I -- I think there is. I</p> <p>12:34 4 mean, there is -- there was a key on my office door,</p> <p>12:34 5 which was essentially an officer's quarters. So I -- I</p> <p>12:34 6 am assuming that that same key was in the doorhandle on</p> <p>12:34 7 the women's dorm. I assume it was.</p> <p>12:34 8 Q. Okay. Is it possible that there was no way</p> <p>12:35 9 to lock the women's dorm from the exterior with the</p> <p>12:35 10 key?</p> <p>12:35 11 A. I would say that's probably correct,</p> <p>12:35 12 correct, because the key would only unlock the door.</p> <p>12:35 13 Q. Well, is it possible that there is no -- no</p> <p>12:35 14 keyhole on the women's dorm from the exterior?</p> <p>12:35 15 A. I could be remembering wrong.</p> <p>12:35 16 Q. Did you ever --</p> <p>12:35 17 A. I am just thinking back to when I officed at</p> <p>12:35 18 station 99, and the last time I did was 10 years ago.</p> <p>12:35 19 You know, there was a key that operated my office door</p> <p>12:35 20 handle.</p> <p>12:35 21 Q. Okay. But that's not the women's dorm,</p> <p>12:35 22 right?</p> <p>12:35 23 A. Correct, right.</p> <p>12:35 24 Q. Okay. So if there wasn't a -- if the</p> <p>12:35 25 women's dorm couldn't be locked from the exterior with</p>	<p>12:37 1 have -- I have said I don't remember at this time</p> <p>12:37 2 having complaints about problems, men going into the</p> <p>12:37 3 women's dorm or restroom. So you know, the initial</p> <p>12:37 4 directive that I can't identify the date or the</p> <p>12:37 5 bulletin number, basically told, you know, men to stay</p> <p>12:38 6 out.</p> <p>12:38 7 Q. So earlier you testified that you issued</p> <p>12:38 8 this initial directive because you heard that men were</p> <p>12:38 9 going into the dorm, women's dorm, and there were no</p> <p>12:38 10 women there, right? That was one of the reasons?</p> <p>12:38 11 A. Yes.</p> <p>12:38 12 Q. Okay. And now you have an anonymous</p> <p>12:38 13 complaint which you spoke with the investigator about,</p> <p>12:38 14 about, again, men going into the dorm and also</p> <p>12:38 15 urinating in the women's restroom, right?</p> <p>12:38 16 MS. COHEN: Objection; mischaracterizes</p> <p>12:38 17 prior testimony.</p> <p>12:38 18 BY MR. MONTEIRO:</p> <p>12:38 19 Q. You can answer.</p> <p>12:38 20 A. Okay. I am confused. What is the question?</p> <p>12:39 21 (THE FOLLOWING WAS READ:</p> <p>12:38 22 "QUESTION: Okay. And now you have an</p> <p>12:38 23 anonymous complaint which you spoke with the</p> <p>12:38 24 investigator about, about, again, men going into the</p> <p>12:38 25 dorm and also urinating in the women's restroom,</p>

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12:38	1 right?")	12:42	1 were not on the shift?
12:39	2 A. Okay. So -- so there is -- the complaint	12:42	2 A. No. That wasn't any of the solutions
12:39	3 referenced in here, yes.	12:42	3 offered.
12:39	4 BY MR. MONTEIRO:	12:42	4 Q. Okay.
12:39	5 Q. And you spoke with the investigator about	12:42	5 A. I believe I asked my bosses what do I do,
12:39	6 some of those allegations?	12:42	6 and none of the -- there was nothing about adding
12:39	7 A. Yes.	12:43	7 locks, because, well, now if you are locking it from
12:39	8 Q. I think we already talked about that.	12:43	8 the outside, could you lock a female employee in the
12:39	9 A. (Witness moves head up and down.)	12:43	9 room?
12:39	10 Q. So in response to -- in response to at least	12:43	10 Q. And I understand you are raising -- or you
12:39	11 two instances of people being in the dorm who shouldn't	12:43	11 are explaining what some of the issues might be with
12:39	12 be in there, I asked you whether you could -- whether	12:43	12 locking it?
12:39	13 you could have locked the women's dorm when women were	12:43	13 A. Right.
12:39	14 not on shift. Would that have been a solution?	12:43	14 Q. I just -- I just want to know whether it was
12:39	15 A. Well, that -- that's not something done	12:43	15 considered, whether there was a discussion about it?
12:39	16 anywhere in the fire department that I am aware of.	12:43	16 A. No. At this time I don't remember a
12:40	17 That would have to be something requested through the	12:43	17 discussion about additional locks.
12:40	18 Houston Airport System's maintenance group.	12:43	18 Q. Okay. And you also mentioned something
12:40	19 It seemed like later on I was -- in,	12:43	19 about the Houston maintenance group telling you no?
12:40	20 say, later in '09/2010, we were looking for solutions,	12:43	20 A. Well, on video cameras, yes.
12:40	21 okay? How can we document who went into either the	12:43	21 Q. Is that what it was? You asked the
12:40	22 women's dorm or restroom, because, you know, we need	12:43	22 maintenance group to put a video camera in?
12:40	23 some -- we need some resolution here, okay? Can we put	12:44	23 A. Yes, as I described, later on, '09/2010, I
12:40	24 a video camera in the hallway, not in the restroom, not	12:44	24 wanted to put a video camera in the hallway, both
12:40	25 in the dorm?	12:44	25 hallways, and they wouldn't do it.
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12:40	1 No, you can't do that.	12:44	1 The union objected: No, that's an
12:40	2 Can we put a card reader that you have	12:44	2 invasion of firefighter privacy.
12:41	3 to swipe your card?	12:44	3 So okay.
12:41	4 The airport IT group said: No, we	12:44	4 Q. Is that -- was that after Ms. Draycott had
12:41	5 don't do that.	12:44	5 left the station or before, if you know?
12:41	6 So I am at a loss.	12:44	6 A. No, I don't remember.
12:41	7 Q. Okay.	12:44	7 Q. How was that effort documented?
12:41	8 A. I am running a standard fire station.	12:44	8 A. I don't think it was. It was a verbal
12:41	9 Q. So when you said someone told you that	12:44	9 request and -- you know, and a verbal note.
12:41	10 locking the women's dorm is not done in the fire	12:44	10 Q. From who?
12:41	11 department, what did you mean by that?	12:44	11 A. As I said, from both the airport system and
12:41	12 A. Well, nowhere that I know of are there rooms	12:44	12 my boss through the union -- that is, chief Snell --
12:41	13 that -- you are suggesting that would be locked when	12:45	13 through the union, he kind of floated that idea.
12:41	14 there are no women on duty.	12:45	14 And they objected.
12:41	15 Q. Right.	12:45	15 And he agreed.
12:41	16 A. So how does it get cleaned? Who inspects it	12:45	16 Q. Okay. How about the card reader option?
12:41	17 before locking it? If you -- once someone unlocks it	12:45	17 Airport IT told you, no, that couldn't be done?
12:42	18 and there is a problem, how do we identify what shift,	12:45	18 A. They didn't say it couldn't be done. They
12:42	19 who was responsible for that problem?	12:45	19 said, you know, there is already a card reader on the
12:42	20 Q. Well, did you the ever consider putting a	12:45	20 gate in their IT room. They said we don't see a need
12:42	21 lock on the door?	12:45	21 to put a card reader on a dorm in a bathroom. That's a
12:42	22 A. Well, it has a lock on the door, operated	12:45	22 waste of their resources.
12:42	23 from the inside.	12:45	23 Q. And who -- is this something that -- were
12:42	24 Q. Did you ever consider putting a lock on the	12:45	24 you communicating with someone from airport IT, or was
12:42	25 exterior of the door so it could be locked when women	12:45	25 this chief Snell?

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12:45	1	A. No. That would have come through airport	12:50	1	does that for airport fire stations.
12:46	2	IT, but I did -- you know, there was an airport	12:50	2	Q. That's the only way you can have a
12:46	3	employee who was kind of our main liaison. But	12:50	3	maintenance -- maintenance done at the airport station?
12:46	4	sometimes I talked directly to the maintenance group,	12:50	4	A. Correct.
12:46	5	and sometimes I went through the liaison. I don't	12:50	5	Q. Okay. And you -- you fill out a form 15 and
12:46	6	remember, but I -- I don't remember who I talked to,	12:50	6	also make a phone call to someone?
12:46	7	but I remember the word back was, no, they are not	12:50	7	A. Right, right.
12:46	8	going to do that.	12:50	8	Q. If we could look at page 8998, I just have
12:46	9	Q. Did you make them aware of the problems that	12:50	9	one question, and then I think we are ready for a lunch
12:46	10	were happening at the station?	12:50	10	break.
12:46	11	A. Yes.	12:50	11	A. All right.
12:46	12	Q. With the access to the dorm and bathroom?	12:50	12	Q. It says: Therefore, I recommend OIG
12:46	13	A. Yes. And again, this is -- I am talking	12:50	13	No. 06552 be closed as information only.
12:46	14	2009/2010.	12:50	14	Do you see that?
12:46	15	Q. Right. Was this -- were these -- would	12:50	15	A. Yes.
12:46	16	these communications have been documented?	12:50	16	Q. Do you know what that means for a complaint
12:47	17	A. No. Like I said, it was verbal.	12:50	17	to be closed as information only?
12:47	18	Q. Who was the airport liaison that you	12:50	18	A. No.
12:47	19	referenced?	12:50	19	Q. Did you ever receive any recommendations
12:47	20	A. It changed over time.	12:51	20	from OIG regarding any measures you could take to
12:47	21	Q. Do you remember?	12:51	21	prevent the allegations that happened?
12:47	22	A. There was Joel Conwell, Chuck Varen, Steve	12:51	22	A. No, not at all.
12:47	23	Rungy.	12:51	23	MR. MONTEIRO: Can we go off the
12:47	24	What's that other cat's name?	12:51	24	record?
12:47	25	Greg Cunningham.	12:51	25	THE VIDEOGRAPHER: 12:50, off record.
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12:47	1	Q. So you would have made your request to one	12:51	1	(Recess from 12:51 to 1:57 p.m.)
12:47	2	of those four folks?	01:57	2	THE VIDEOGRAPHER: 1:56, back on
12:47	3	A. Yeah, unless the liaison said: Hey, here is	01:57	3	record, disk 4.
12:47	4	a phone number, you know. Call this person.	01:57	4	BY MR. MONTEIRO:
12:47	5	But I don't recall talking to an IT	01:57	5	Q. Chief McAteer, we are back from a lunch
12:48	6	person directly.	01:57	6	break. Do you understand you are still under oath?
12:48	7	Q. Was chief Snell involved in communications	01:57	7	A. Yes.
12:48	8	about the -- putting the card reader in the dorm?	01:57	8	Q. Before we took our break, we had started
12:48	9	A. I just advised that I am looking into it,	01:57	9	looking at exhibit 5, which was the ARFF bulletin from
12:48	10	you know, and then advised them that, you know, I have	01:57	10	February 18, 2007.
12:48	11	been told no.	01:57	11	Could you get that?
12:49	12	Q. So how do you make -- how do you make	01:57	12	A. Yes.
12:49	13	maintenance requests for one of the ARFF stations?	01:57	13	Q. Do you recall issuing this bulletin in
12:49	14	A. If it's a routine, it's generally a phone	01:58	14	February of 2007?
12:49	15	call. They have a maintenance -- oh, a main	01:58	15	A. Yes, this is my bulletin. That is the day.
12:49	16	maintenance phone number.	01:58	16	Do I recall hitting send on the
12:49	17	And you call it in, and the station	01:58	17	computer? I mean, no. You know, that's 12 years ago,
12:49	18	would also fill out form 15. You know, it's a request	01:58	18	but yes, I sent this out.
12:49	19	for repair.	01:58	19	Q. You have no reason to believe you didn't
12:49	20	But the City -- this chair keeps	01:58	20	issue this?
12:49	21	sliding back.	01:58	21	A. Right.
12:49	22	The City building services does not	01:58	22	Q. What is -- what is an ARFF bulletin?
12:49	23	have anything to do with airport property. So the	01:58	23	A. It's just an informational correspondence
12:49	24	building services that would come out and fix any of	01:58	24	within the stations assigned to ARFF.
12:50	25	the City fire stations, it's -- airport maintenance	01:58	25	Q. Is it considered an order?

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01:58	1	A. Depends on what's in the bulletin. If there	02:02	1	A. Well, as I said earlier, prior to the 2006
01:58	2	is the some sort of a directive, then, yes, it is an	02:02	2	investigation, the anonymous complaints, you know, I
01:59	3	order.	02:02	3	really had not heard about problems.
01:59	4	Q. So for exhibit 5 did you consider exhibit 5	02:02	4	You know, now, specifically what kind
01:59	5	to be an order?	02:02	5	of problems are you asking about?
01:59	6	A. Yes.	02:02	6	Q. So in the bulletin it says --
01:59	7	Q. And the order is that the assigned female	02:02	7	A. Okay.
01:59	8	dorms are only to be used by our female ARFF members,	02:02	8	Q. -- our male members shall not use the room
01:59	9	correct?	02:02	9	for --
01:59	10	A. Yes.	02:02	10	A. Watching TV.
01:59	11	Q. Does the order need to be followed strictly?	02:02	11	Q. -- watching TV, studying -- studying for
01:59	12	A. Yes, I assume.	02:02	12	promotional exams, holding conferences, et cetera?
01:59	13	Q. That was your intention?	02:02	13	A. Uh-huh.
01:59	14	A. Yes, yeah, yeah.	02:02	14	Q. So my question is: Are those -- are those
01:59	15	Q. I think we talked about this earlier, but	02:02	15	some of the -- are those the issues that you had heard
01:59	16	can you remind me who Don Hoyt is, whose name is at the	02:02	16	about as having -- as occurring at the stations which
01:59	17	bottom of exhibit 5?	02:02	17	had women's dorm in ARFF?
01:59	18	A. He was at that time my assistant	02:02	18	A. I don't remember specifically.
01:59	19	coordinator.	02:02	19	Q. Did you write the bulletin, or did Don Hoyt
01:59	20	Q. So is it likely that you directed Mr. Hoyt	02:03	20	write the bulletin?
01:59	21	to issue this bulletin?	02:03	21	A. Don Hoyt wrote it, and then I approved it.
01:59	22	A. Yes.	02:03	22	Q. At your direction?
01:59	23	Q. Why did you have this bulletin issued on	02:03	23	A. Yes.
02:00	24	February 10 of 2007?	02:03	24	Q. So if you would receive complaints about men
02:00	25	A. Well, so it starts off, you know -- I am	02:03	25	watching TV, studying for promotional exams, and
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02:00	1	guessing this one was probably -- we had a -- the dorm	02:03	1	holding conferences, could that have been a reason why
02:00	2	room down at Hobby modified. Then the restroom cut out	02:03	2	this bulletin was issued in February of 2007?
02:00	3	a portion of the -- what was the common restroom,	02:03	3	A. Well, like I said, I -- I don't remember
02:00	4	walled it off. Let's see. I think we took two of the	02:03	4	getting those specific complaints.
02:00	5	showers. So one drain would have been for a commode.	02:03	5	Maybe captain Hoyt had been talking. I
02:00	6	And then -- so essentially had a	02:03	6	don't know.
02:00	7	separate women's restroom. So -- because this fire	02:03	7	But -- but the station 81 modification
02:00	8	station was similar to station 92, they were not	02:03	8	was complete, and it was probably an opportunity to
02:00	9	separate quarters. So we created separate quarters.	02:04	9	remind.
02:01	10	Q. So is it your belief that you issued this	02:04	10	Q. And you reviewed the bulletin before it went
02:01	11	bulletin in connection with modification of the women's	02:04	11	out, right?
02:01	12	dorm at station 81?	02:04	12	A. Yes.
02:01	13	A. Yes, and as a reminder, cautionary reminder.	02:04	13	Q. So at this point at least -- strike that.
02:01	14	Q. Now, the bulletin states: Our male members	02:04	14	Who would the bulletin have been issued
02:01	15	shall not use the room for watching TV, studying for	02:04	15	to?
02:01	16	promotional exams, holding conferences, et cetera.	02:04	16	A. All members of ARFF.
02:01	17	Do you see that?	02:04	17	Q. And I think we talked about this earlier.
02:01	18	A. Yes.	02:04	18	Is that -- would it have been issued by e-mail with a
02:01	19	Q. Are these -- are those some of the issues	02:04	19	certification request?
02:01	20	that you had been hearing about having occurred at	02:04	20	A. No, we don't do certification requests.
02:01	21	the -- at the stations within ARFF?	02:04	21	Q. I am sorry. Acknowledgement requests, is
02:01	22	A. Yes. Maybe captain Hoyt had heard about	02:04	22	that what you told me earlier?
02:01	23	those and was throwing those out there as examples.	02:04	23	A. No. The -- that was in reference to
02:01	24	Q. Well, my question is: Had you heard about	02:04	24	departmental guidelines, orders, special bulletins.
02:02	25	them? Are these issues that you had heard about?	02:04	25	Q. So what's the process for distributing an

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02:04	1 ARFF bulletin? What was the process for distributing	02:08	1 A. Specifically -- for that specific reason,
02:04	2 an ARFF bulletin in 2007?	02:08	2 no, but there were -- I am sure there were a few times
02:05	3 A. E-mail.	02:08	3 while at 54: You know, hey, how are things looking?
02:05	4 Q. And did you send that e-mail out, or did Don	02:08	4 Let's go take a look.
02:05	5 Hoyt? Do you know?	02:08	5 You know, but that wasn't the intent of
02:05	6 A. I would imagine captain Hoyt sent it out.	02:08	6 the visit.
02:05	7 Q. Who does the e-mail go to?	02:08	7 Q. So you do remember going into the dorm or
02:05	8 A. Well, all members of ARFF.	02:08	8 bathroom to check the cleanliness. Is that right?
02:05	9 Q. So as of February 18th of 2007, everyone	02:08	9 A. Yes.
02:05	10 working in ARFF knew that the female dorms and	02:08	10 Q. Okay. Who would accompany you when you went
02:05	11 restrooms were off limits for men. Is that right?	02:08	11 in on those inspections?
02:05	12 MS. SULLIVAN: Objection; calls for	02:08	12 A. Whichever station captain was on duty.
02:05	13 speculation.	02:09	13 Q. Did you ever find any problems in there?
02:05	14 Go ahead, and answer.	02:09	14 A. No, I didn't.
02:05	15 A. That was my intention. I send out the	02:09	15 Q. Ms. Draycott transferred to station 54 in
02:05	16 directive, and I expect it to be complied with.	02:09	16 late 2008. Does that sound about right?
02:05	17 BY MR. MONTEIRO:	02:09	17 A. Okay.
02:05	18 Q. So and everyone who was working at	02:10	18 Q. You don't have any reason to disagree with
02:05	19 station 54, it was your intention that as of	02:10	19 that?
02:05	20 February 10th of 2007, they would have been aware that	02:10	20 A. I don't have her transfer history in front
02:06	21 the female dorms and female restrooms were off limits	02:10	21 of me, but if -- it's probably -- that's the right
02:06	22 to men?	02:10	22 neighborhood. Let's say that.
02:06	23 A. Yes. That's the intent of this bulletin.	02:10	23 Q. Sure. So at some point did you become aware
02:06	24 Q. The bulletin also says: We expect the girls	02:10	24 that Ms. Draycott had made complaints to captain
02:06	25 to extend the same courtesy to the male dorms and	02:10	25 Henschel about the conditions of the women's dorm and
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02:06	1 bathrooms.	02:10	1 women's bathroom at station 54?
02:06	2 Do you see that?	02:10	2 A. Yes.
02:06	3 A. Where is that?	02:10	3 Q. And were you aware that captain Henschel was
02:06	4 Q. That's about a line after what we just	02:10	4 documenting some of her complaints in the captain's
02:06	5 reviewed.	02:10	5 log?
02:06	6 A. Okay.	02:10	6 A. It seemed like I asked about it: Okay. So
02:06	7 Okay.	02:10	7 are you documenting this anywhere?
02:06	8 Q. Do you know if you included that language?	02:10	8 Oh, yeah, yeah.
02:06	9 A. Again, I think captain Hoyt wrote this, and	02:10	9 Okay.
02:06	10 I approved it.	02:10	10 So I don't remember if I asked him
02:06	11 Q. Had you heard of women using the men's dorms	02:10	11 specifically how are you documenting it, you know, but
02:06	12 or men's bathrooms at the stations in ARFF?	02:10	12 it seemed like I got a -- an e-mail from him.
02:06	13 A. I don't remember hearing any issues. I	02:11	13 Q. So you were aware that he was documenting
02:07	14 don't remember hearing that women were using the men's	02:11	14 her complaints. You weren't necessarily -- or you
02:07	15 facilities. That wouldn't make sense.	02:11	15 don't remember how he was documenting them?
02:07	16 Q. When you visited the stations, would you	02:11	16 A. Right.
02:07	17 kind of spot-check the dorm, the women's dorm or	02:11	17 Q. Is that right?
02:07	18 women's bathroom, to make sure that, you know, they	02:11	18 A. Right.
02:07	19 were being kept clean and orderly fashion?	02:11	19 (Exhibit 6 marked.)
02:07	20 A. No. Typically I was there for a purpose, to	02:11	20 Q. Chief McAteer, I am showing you what's been
02:07	21 talk to the captain, look at something in particular	02:11	21 marked as deposition exhibit 6. For identification
02:07	22 that might need to be repaired or replaced.	02:11	22 purposes, these are selected pages from the City's
02:08	23 Q. You never went -- never went to station 54	02:12	23 seventh supplemental production, and they have a Bates
02:08	24 just to check on the status of the women's dorm or	02:12	24 range of 146524 through 146488.
02:08	25 women's bathroom. Is that right?	02:12	25 A. Okay.

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02:12	1	Q. Are you familiar with the form of exhibit 6?	02:16	1	Q. Okay. And what -- in 2009 what was your
02:12	2	A. Yes. It's a daily captain's log.	02:16	2	practice in terms of reviewing the captain's logs for
02:12	3	Q. What is the purpose of the captain's log?	02:16	3	the four stations that you oversaw?
02:12	4	A. Essentially a record of that shift, workday,	02:16	4	A. Oh, just as needed. There was no -- no
02:12	5	who worked where, who was there, who was off, fuel	02:16	5	requirement for me to go around reading their captain's
02:12	6	readings.	02:16	6	logs every day.
02:12	7	The other side of this would be kind of	02:16	7	Q. So unless your captain brought something to
02:12	8	a narrative. The -- was anyone in the station to work	02:16	8	your attention, there wouldn't be any reason for --
02:13	9	on equipment or the goings on, what happened that day.	02:16	9	there wouldn't -- it wouldn't be your normal practice
02:13	10	Q. And what information is typically recorded	02:16	10	to look at the logs?
02:13	11	in the captain's log?	02:16	11	A. Yes. That's correct.
02:13	12	A. Everything I just described.	02:16	12	Q. So let's look at the first page of the log,
02:13	13	Q. Are there any policies and procedures in	02:16	13	which is marked 146524.
02:13	14	place which provide guidance in terms of what	02:16	14	So the first page appears to contain
02:13	15	information should be contained in the captain's log?	02:16	15	information relating staffing for this particular
02:13	16	A. I'm not sure. I suppose somewhere there	02:16	16	shift, right?
02:13	17	is -- that might be in the newly promoted officer	02:16	17	A. Right.
02:13	18	information that they give now.	02:17	18	Q. And it's dated April 8th of 2009?
02:13	19	And along the way there was a	02:17	19	A. Right.
02:13	20	guideline, but I am not aware of any current	02:17	20	Q. On that day the A shift started at 6:30 a.m.
02:14	21	guidelines, policies, that direct what should or should	02:17	21	Is that right?
02:14	22	not be in a captain's log.	02:17	22	A. Right.
02:14	23	Q. Okay. Let's shift our focus back to 2009.	02:17	23	Q. And the senior captain on duty was Tamez?
02:14	24	A. Okay.	02:17	24	A. Right.
02:14	25	Q. Do you know if there was any guidance in	02:17	25	Q. The captain was Henschel?
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02:14	1	place?	02:17	1	A. Yep.
02:14	2	A. Again, that was just something that was	02:17	2	Q. That's captain Henschel's signature on
02:14	3	generally passed on, you know. If you were -- if you	02:17	3	page 1 on the first page?
02:14	4	were a captain, if you were a riding captain, you know,	02:17	4	A. I assume it is. It's not really legible.
02:14	5	that was just something: Hey, let me -- make sure you	02:17	5	Q. Would anyone else have signed the log?
02:14	6	fill out the log, and you know, just put who goes where	02:17	6	A. Well, the captains kind of decide who fills
02:14	7	and anything that happens that day.	02:17	7	out the -- the senior captain might prefer to fill this
02:14	8	That's generally the extent of	02:17	8	out himself, but I am guessing that's Henschel's
02:14	9	directions on how to fill out a captain's log.	02:17	9	signature.
02:15	10	Q. Okay. And who has access to the captain's	02:17	10	Q. Let's look at the second page where it says
02:15	11	log at the station?	02:17	11	146525 for a minute. This is entitled events of the
02:15	12	A. It's kept in the captain's room.	02:18	12	day, right?
02:15	13	Q. Can anyone look at the captain's log --	02:18	13	A. Yes.
02:15	14	sorry.	02:18	14	Q. And whose responsibility is it to input the
02:15	15	Can any member look at the captain's	02:18	15	information in this timeline?
02:15	16	log?	02:18	16	A. As I said, the station captain -- the senior
02:15	17	A. Well, yes and no. If a member just walks	02:18	17	and the captain can work it out between them, but one
02:15	18	into the captain's room, you know, and says, hey,	02:18	18	of them needs to enter this information.
02:15	19	captain, I want to look at that captain's log, you	02:18	19	Q. What level of discretion does the captain
02:15	20	know, to me, that would -- what's up? What for? This	02:18	20	have in terms of what information they put in the
02:15	21	is my business. This is for me to fill out. What do	02:18	21	events of the day, what information they record in the
02:15	22	you need?	02:18	22	events of the day?
02:15	23	Now, if the captain is out on a run, I	02:18	23	A. I would say pretty wide discretion, but if
02:15	24	suppose someone could walk into his room and open the	02:18	24	it's something important, then not much discretion.
02:15	25	binder and look at it.	02:18	25	It -- it should be in here.

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02:19	1 Q. So the log indicates that -- sorry -- the	02:22	1 speculation.
02:19	2 events of the day indicates that Paula Keyes reported	02:22	2 Go ahead, and answer.
02:19	3 for duty as a new member on April 8th of 2009. Is that	02:22	3 BY MR. MONTEIRO:
02:19	4 right?	02:22	4 Q. You can answer.
02:19	5 A. Yes.	02:22	5 A. Sure, it's possible.
02:19	6 Q. And if we go back to the staffing -- the	02:22	6 Q. Did captain Henschel report whatever the
02:19	7 staffing table, it looks like Ms. Draycott was on duty	02:22	7 issue was to you on April 10th of 2009?
02:19	8 that day?	02:22	8 A. Not that I recall.
02:19	9 A. Yes.	02:22	9 Q. Do you think he -- should he have?
02:19	10 Q. If we go look at the last entry on the log	02:22	10 A. Well, he has got a senior captain there. I
02:19	11 on 146526 -- it should be the very next page -- this is	02:22	11 would probably first get with the senior captain.
02:19	12 the log entry for April 10th of 2009. Is that correct?	02:22	12 Q. Do you know if he did that?
02:19	13 A. Okay.	02:22	13 A. No, I have no idea.
02:19	14 Q. If we look at the events of the day -- if we	02:22	14 Q. Let's flip to the next date in the log,
02:20	15 can take a look for entry at 8:50 a.m. --	02:22	15 which is May 12th of 2009.
02:20	16 A. Okay.	02:22	16 A. Okay.
02:20	17 Q. -- it says F/F's Draycott and Keyes called	02:22	17 Q. It starts on page 146512.
02:20	18 in the captain's room to discuss the TV situation and	02:23	18 A. Right.
02:20	19 advised they would contact the captain if they	02:23	19 Q. Again, if we go to the events of the day,
02:20	20 encounter problems in their dormitory or bathroom.	02:23	20 you can look at the entry for 7:40. It says: EJ --
02:20	21 Did I read that right?	02:23	21 quote, EJ Draycott asked captain Henschel to come
02:20	22 A. Yes.	02:23	22 witness urine on the women's toilet seat and stated
02:20	23 Q. Do you know why captain Henschel called	02:23	23 that it was not left that way last day on the A shift,
02:20	24 Ms. Draycott and Ms. Keyes into the captain's office to	02:23	24 quote.
02:20	25 discuss the TV situation and to direct them to contact	02:23	25 Did I read that right?
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02:20	1 him if they run into any problems in the women's dorm	02:23	1 A. Yes.
02:20	2 or bathroom on April 10th?	02:23	2 Q. Then let's look at the entry at 1800 hours
02:21	3 A. No. I don't know what prompted this entry.	02:23	3 which says: Quote, senior captain Tamez spoke with
02:21	4 Q. Do you know what the TV situation was?	02:23	4 senior captain Ponce about the ladies' bathroom problem
02:21	5 A. I just heard anecdotally at some point that	02:23	5 and stated that this has got to stop and that this is
02:21	6 Draycott wanted the TV out of the female dorm room.	02:23	6 not first or second time it has happened. Senior
02:21	7 Q. You don't know when that was, though, that	02:23	7 captain Ponce said he would talk to his captain and
02:21	8 you heard it?	02:23	8 crew tomorrow on the B shift, quote.
02:21	9 A. No.	02:23	9 Did I read that right?
02:21	10 Q. Do you know what the problems in their	02:23	10 A. Yes.
02:21	11 bathroom or dormitory are referring to?	02:23	11 Q. Do you know what the ladies' bathroom
02:21	12 A. No.	02:24	12 problem was that was entered at 1800 hours? What's
02:21	13 Q. Would you agree that it's likely that some	02:24	13 that a reference to?
02:21	14 issue must have been brought to captain Henschel's	02:24	14 A. I don't know. I would have to ask these two
02:21	15 attention to get him to call Ms. Keyes and Ms. Draycott	02:24	15 captains what were you referencing.
02:21	16 into his office?	02:24	16 Q. So at 7:40 Draycott's -- Henschel recorded
02:21	17 MS. SULLIVAN: Objection; calls for	02:24	17 that Draycott has asked him to come witness urine on
02:21	18 speculation.	02:24	18 the lady's toilet seat, right?
02:21	19 Go ahead, and answer.	02:24	19 A. Yes.
02:21	20 A. Again, like I said, I don't know what caused	02:24	20 Q. And then later that day senior captain Tamez
02:22	21 him to make this entry.	02:24	21 spoke with senior captain Ponce about the ladies'
02:22	22 BY MR. MONTEIRO:	02:24	22 bathroom problem.
02:22	23 Q. I mean, is it possible that an issue came	02:24	23 Is it likely that discussion was
02:22	24 up?	02:24	24 prompted by Ms. Draycott's report at 7:40?
02:22	25 MS. SULLIVAN: Objection; calls for	02:24	25 MS. SULLIVAN: Objection; calls for

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02:24	1 speculation.	02:27	1 Q. Left dirty, okay.
02:24	2 Go ahead, and answer.	02:27	2 A. Right.
02:24	3 A. Yes, it's possible. Yes.	02:27	3 Q. Could it -- could it present a safety issue
02:25	4 BY MR. MONTEIRO:	02:28	4 for women to have men in the women's bathroom?
02:25	5 Q. So in 2009 did HFD policy prohibit male	02:28	5 MS. SULLIVAN: Objection; calls for
02:25	6 firefighters in ARFF from --	02:28	6 speculation.
02:25	7 THE REPORTER: I'm sorry. I didn't get	02:28	7 Go ahead, and answer.
02:25	8 that.	02:28	8 A. I don't know about a safety issue.
02:25	9 BY MR. MONTEIRO:	02:28	9 Certainly if there -- if they are in there at the same
02:25	10 Q. In 2009 did HFD policy prohibit male	02:28	10 time, I mean, you know -- I'm not -- I don't know how
02:25	11 firefighters in ARFF from using station bathrooms	02:28	11 to answer what kinds of things could happen.
02:25	12 dedicated to females?	02:28	12 I don't know. I suppose anything could
02:25	13 A. Let me say HFD -- I assume you are referring	02:28	13 happen.
02:25	14 specifically to ARFF. So --	02:28	14 BY MR. MONTEIRO:
02:25	15 Q. Right.	02:28	15 Q. Well, I mean, could it present a privacy
02:25	16 A. It was HFD ARFF policy, yes.	02:28	16 issue?
02:25	17 Q. Okay. So male -- male firefighters cannot	02:28	17 A. Absolutely.
02:25	18 use the women's bathroom at ARFF stations, correct?	02:28	18 Q. Could it -- if a man -- if a male is inside
02:25	19 A. Correct.	02:28	19 the women's bathroom, could it interfere with a women's
02:25	20 Q. And there is no exceptions for this rule?	02:28	20 working conditions?
02:25	21 A. That's correct. Station 92 does not have	02:28	21 MS. SULLIVAN: Objection; legal
02:25	22 separate quarters.	02:28	22 conclusion, calls for speculation.
02:25	23 Q. So at station 54 male firefighters cannot	02:29	23 Go ahead, and answer.
02:26	24 use the women's bathroom, right?	02:29	24 A. It would be awkward.
02:26	25 A. Correct.	02:29	25 BY MR. MONTEIRO:
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02:26	1 Q. And why was this -- why was that policy in	02:29	1 Q. Could it make the woman feel uncomfortable?
02:26	2 place?	02:29	2 A. Yes.
02:26	3 A. Well, okay. I think I have answered that	02:29	3 MS. SULLIVAN: Objection; calls for
02:26	4 several times, just to respect the separate quarters.	02:29	4 speculation.
02:26	5 Well, you say, well, why was the policy	02:29	5 Q. I think you said you don't know if it could
02:26	6 in place?	02:29	6 present a safety issue for women if men are in the
02:26	7 So initially we had brand-new stations,	02:29	7 women's dorm, but could a woman be assaulted in the
02:26	8 the first stations with separate quarters. And you	02:29	8 women's bathroom by a male who wasn't supposed to be in
02:26	9 know, to keep people from encroaching into the women's	02:29	9 there?
02:26	10 dorm for TV watching, then it was not -- no, these are	02:29	10 MS. SULLIVAN: Objection; calls for
02:27	11 designated quarters and restrooms, you know.	02:29	11 speculation.
02:27	12 So just -- I am just trying to enforce	02:29	12 A. Yes. Anyone could be assaulted anywhere.
02:27	13 the separation.	02:29	13 BY MR. MONTEIRO:
02:27	14 Q. And is compliance with that policy optional?	02:29	14 Q. So if the policy is violated but only on one
02:27	15 A. No.	02:29	15 occasion, is that okay?
02:27	16 Q. It was not?	02:29	16 A. No. It should not be.
02:27	17 A. It's not supposed to be.	02:29	17 Q. And in 2009 did ARFF have a policy that
02:27	18 Q. So if you have male firefighters using the	02:30	18 prohibited male firefighters from entering the station
02:27	19 women's bathroom at station 54, what kind of bad things	02:30	19 dormitory dedicated to women?
02:27	20 can happen?	02:30	20 A. Yes.
02:27	21 MS. SULLIVAN: Objection; calls for	02:30	21 I think I have answered that.
02:27	22 speculation.	02:30	22 Q. So male firefighters cannot enter the
02:27	23 A. Yeah. I mean, I would imagine, you know,	02:30	23 women's dorm at station 54. Is that right?
02:27	24 complaints that it's left dirty.	02:30	24 A. Yes, according to my ARFF bulletin.
02:27	25 BY MR. MONTEIRO:	02:30	25 Q. Are there any exceptions to that rule?

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02:30	1	A. Daily inspection and cleaning.	02:32	1	A. Okay. So would -- would a male firefighter
02:30	2	Q. So only for the daily inspection and	02:33	2	urinating on the toilet seat in the women's restroom be
02:30	3	cleaning?	02:33	3	a violation of the ARFF bulletin policy? Is that the
02:30	4	A. Yes.	02:33	4	question?
02:30	5	Q. Why was that -- what purpose does that	02:33	5	BY MR. MONTEIRO:
02:30	6	policy serve?	02:33	6	Q. Yes.
02:30	7	MS. SULLIVAN: Objection; vague.	02:33	7	A. Then, well, yes, it would.
02:30	8	A. What purpose does the policy serve? To	02:33	8	Q. Because they weren't supposed to be in
02:30	9	direct people to inspect and clean and then stay out.	02:33	9	there, right?
02:30	10	BY MR. MONTEIRO:	02:33	10	A. Correct.
02:30	11	Q. No. Sorry. Let me clarify.	02:33	11	Q. And the fact that they are urinating on the
02:30	12	What purpose does prohibiting men from	02:33	12	toilet seat, does that make it an even more serious
02:30	13	going into the women's dorm serve?	02:33	13	violation of your bulletin than for them just to be in
02:31	14	A. To be respectful of what should be private	02:33	14	there?
02:31	15	areas.	02:33	15	MS. SULLIVAN: Objection; improper
02:31	16	Q. Was compliance with that policy optional?	02:33	16	hypothetical, vague.
02:31	17	A. No.	02:33	17	Go ahead, and answer.
02:31	18	Q. And again, if a man -- if a male firefighter	02:33	18	A. I don't -- I don't really see degrees of
02:31	19	is in the women's dorm, would that present a privacy	02:33	19	violation, but do we know for a fact was there an
02:31	20	issue for the women?	02:33	20	investigation to see was that in fact urine.
02:31	21	MS. SULLIVAN: Objection; calls for	02:33	21	I mean, we are assuming that all of
02:31	22	speculation.	02:33	22	these allegations are true and factual.
02:31	23	Go ahead, and answer.	02:34	23	BY MR. MONTEIRO:
02:31	24	A. I would assume it would, yes.	02:34	24	Q. I am asking you to assume that that
02:31	25	BY MR. MONTEIRO:	02:34	25	happened, okay?
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02:31	1	Q. Could it present a safety issue?	02:34	1	A. Okay, all right.
02:31	2	MS. SULLIVAN: Objection; calls for	02:34	2	Q. Okay. Put it to the side whether or not it
02:31	3	speculation.	02:34	3	was urine. Assume that a male firefighter goes into
02:31	4	Go ahead, and answer.	02:34	4	the women's dorm and urinates on the toilet seat.
02:31	5	A. It could, yes.	02:34	5	A. Right.
02:32	6	BY MR. MONTEIRO:	02:34	6	MS. SULLIVAN: Objection; improper
02:32	7	Q. Now, if a male firefighter not only uses the	02:34	7	hypothetical and vague.
02:32	8	bathroom -- uses the toilet at station 54 but is	02:34	8	Go ahead, and answer.
02:32	9	urinating on the toilet seat in the women's bathroom at	02:34	9	BY MR. MONTEIRO:
02:32	10	station 54, would that also be a violation of HFD's	02:34	10	Q. My question is: Would that be even a more
02:32	11	rules and regulations?	02:34	11	serious violation of just the male firefighter using
02:32	12	MS. SULLIVAN: Objection; improper	02:34	12	the women's restroom?
02:32	13	hypothetical.	02:34	13	MS. SULLIVAN: Same objection.
02:32	14	Go ahead, and answer.	02:34	14	Go ahead and answer.
02:32	15	A. Okay. Department rules and regulations?	02:34	15	A. All right. It's still a violation of the
02:32	16	BY MR. MONTEIRO:	02:34	16	ARFF bulletin, a violation of my directive, because if
02:32	17	Q. Right.	02:34	17	the male firefighter had not been in the bathroom, he
02:32	18	A. I don't recall seeing anything about	02:34	18	would not have had an opportunity to urinate on the
02:32	19	urinating on the seat of a toilet in the department	02:34	19	toilet seat.
02:32	20	rules and regs.	02:34	20	BY MR. MONTEIRO:
02:32	21	Q. Would it violate your -- the language of	02:34	21	Q. And who -- did the women firefighters have
02:32	22	your bulletin?	02:35	22	to clean their own bathrooms in 2009?
02:32	23	MS. SULLIVAN: Objection; improper	02:35	23	A. At some point, you know, when the
02:32	24	hypothetical, vague.	02:35	24	clarification -- so I guess of -- so the 2007 -- no --
02:32	25	Go ahead, and answer.	02:35	25	'8.

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02:35	1	When was the captain Hoyt?	02:37	1	A. Yes.
02:35	2	Q. That was February '07.	02:37	2	Q. They sleep there?
02:35	3	A. February '07, all right. So the	02:37	3	A. Yes.
02:35	4	clarification bulletin had already come out, so no, at	02:37	4	Q. And they eat there?
02:35	5	this time all members were to inspect and clean all	02:37	5	A. Yes.
02:35	6	areas of the station daily.	02:38	6	Q. It sounds like they can go -- can leave the
02:35	7	Q. So at some point were women responsible for	02:38	7	station when they are on duty to go use a different
02:35	8	cleaning the women's restroom and dorm?	02:38	8	bathroom. Is that right?
02:35	9	MS. SULLIVAN: Objection; vague.	02:38	9	MS. SULLIVAN: Objection; improper
02:35	10	Go ahead, and answer.	02:38	10	hypothetical, vague.
02:35	11	A. Apparently they interpreted my first	02:38	11	Go ahead, and answer.
02:35	12	directive as literally, an absolute, males never, ever	02:38	12	A. Okay. Well, if they take one of the
02:35	13	enter the women's restroom. So I guess you women are	02:38	13	apparatus over to the terminal building and go do some
02:36	14	going to go have to clean -- have to clean the women's	02:38	14	building familiarity, there is restrooms over in the
02:36	15	room, because we are not allowed.	02:38	15	terminal building or wherever they go. I mean, they
02:36	16	BY MR. MONTEIRO:	02:38	16	have to stay on the airport.
02:36	17	Q. That was not your intention?	02:38	17	BY MR. MONTEIRO:
02:36	18	A. Correct.	02:38	18	Q. Okay. Would you -- would it be okay with
02:36	19	Q. So there was some period of time where it	02:38	19	you if women were leaving the station to use the
02:36	20	sounds like women were responsible for cleaning the	02:38	20	restroom at another station because their station's
02:36	21	women's dorm and the women's restroom. Is that	02:38	21	bathroom was dirty?
02:36	22	correct?	02:38	22	MS. SULLIVAN: Objection; improper
02:36	23	A. Yes. By the same token, they were not	02:38	23	hypothetical, vague.
02:36	24	expected to clean the men's restroom.	02:38	24	Go ahead, and answer.
02:36	25	Q. Okay. Do you know when that was, by the	02:38	25	A. Well, no, because, one, if they go on their
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02:36	1	way?	02:39	1	own, then their truck is understaffed.
02:36	2	A. That's what I am saying. I don't remember,	02:39	2	Two, if they take that truck off of
02:36	3	okay? I know we have clarification -- one of the	02:39	3	their runway complex, now, we have less than required
02:36	4	clarifications in 2007 here.	02:39	4	coverage for that runway complex.
02:36	5	Q. Okay. So if a woman is required to clean	02:39	5	BY MR. MONTEIRO:
02:37	6	the women's bathroom after a male has urinated on the	02:39	6	Q. They should be able to -- you would agree
02:37	7	toilet seat, would that interfere with the women's	02:39	7	that they should be able to be comfortable using the
02:37	8	working conditions?	02:39	8	bathroom at their station, right?
02:37	9	MS. SULLIVAN: Objection; calls for a	02:39	9	A. Yes.
02:37	10	legal conclusion, vague, improper hypothetical.	02:39	10	Q. So if a male firefighter continues to
02:37	11	But go ahead, and answer.	02:39	11	urinate on the toilet seats in the women's bathroom
02:37	12	A. I would see it as unpleasant and awkward.	02:39	12	even after being instructed not to, would you consider
02:37	13	BY MR. MONTEIRO:	02:40	13	that a serious problem?
02:37	14	Q. She shouldn't have to clean up after a male	02:40	14	MS. SULLIVAN: Objection; vague,
02:37	15	who used the women's bathroom, right?	02:40	15	improper hypothetical.
02:37	16	MS. SULLIVAN: Objection; vague,	02:40	16	Go ahead.
02:37	17	improper hypothetical.	02:40	17	A. Yes. If in fact that was happening, yes.
02:37	18	Go ahead, and answer.	02:40	18	BY MR. MONTEIRO:
02:37	19	A. Correct, yeah. Philosophically, I agree.	02:40	19	Q. Would you consider that behavior to be
02:37	20	BY MR. MONTEIRO:	02:40	20	harassing?
02:37	21	Q. And the station -- the fire station is	02:40	21	MS. SULLIVAN: Objection; calls for a
02:37	22	essentially the firefighters' home when they are on	02:40	22	legal conclusion, improper hypothetical, vague.
02:37	23	duty, right?	02:40	23	Go ahead, and answer.
02:37	24	A. Yes.	02:40	24	A. I categorize it as rude, gross -- I mean,
02:37	25	Q. They live there, correct?	02:40	25	knock it off.

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02:40	1 BY MR. MONTEIRO:	02:43	1 speculation.
02:40	2 Q. Could it be harassing?	02:43	2 Go ahead, and answer.
02:40	3 MS. SULLIVAN: Objection; calls for a	02:43	3 A. Well, from the language, he is saying it's
02:40	4 legal conclusion, improper hypothetical, vague.	02:43	4 not the first or second time it has happened.
02:40	5 Go ahead, and answer.	02:43	5 BY MR. MONTEIRO:
02:40	6 A. Harassing? I suppose it could be.	02:43	6 Q. So it's at least the third time?
02:40	7 BY MR. MONTEIRO:	02:44	7 MS. SULLIVAN: Objection; calls for
02:40	8 Q. And if that issue was happening, should it	02:44	8 speculation.
02:40	9 have been dealt with?	02:44	9 BY MR. MONTEIRO:
02:41	10 MS. SULLIVAN: Objection; vague.	02:44	10 Q. Is that fair?
02:41	11 Go ahead, and answer.	02:44	11 MS. SULLIVAN: Objection calls for
02:41	12 A. Yes. If it was reported and there is	02:44	12 speculation.
02:41	13 evidence that that's -- that's what's going on, yes, it	02:44	13 Go ahead, and answer.
02:41	14 should be dealt with.	02:44	14 A. That's how I would interpret it, yes.
02:41	15 BY MR. MONTEIRO:	02:44	15 BY MR. MONTEIRO:
02:41	16 Q. Why?	02:44	16 Q. So there -- the log indicates that there is
02:41	17 A. Well, because you want bad behavior to stop.	02:44	17 some ongoing problem in the ladies' bathroom. Is that
02:41	18 Q. If a female firefighter is discovering urine	02:44	18 fair?
02:42	19 on the toilet seats at the fire station bathroom	02:44	19 MS. SULLIVAN: Objection; calls for
02:42	20 dedicated to females, is that something that she should	02:44	20 speculation.
02:42	21 raise with her captain?	02:44	21 Go ahead, and answer.
02:42	22 A. Yes.	02:44	22 A. Okay. Well, he is describing that the
02:42	23 Q. And what should the captain do?	02:44	23 ladies' bathroom problem, which I assume he is
02:42	24 MS. SULLIVAN: Objection; calls for	02:44	24 referring to the 7:40 -- referring to a problem.
02:42	25 speculation.	02:44	25 And -- okay. What was --
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02:42	1 But go ahead, and answer.	02:45	1 BY MR. MONTEIRO:
02:42	2 A. Look into it: Okay. Show me. When did you	02:45	2 Q. So you said that your interpretation is he
02:42	3 find this?	02:45	3 is referring to the entry at 7:40 that Ms. Draycott
02:42	4 BY MR. MONTEIRO:	02:45	4 asked captain Henschel to come witness urine on the
02:42	5 Q. Some level of investigation. Is that fair?	02:45	5 women's toilet seat?
02:42	6 A. Yes.	02:45	6 A. Right.
02:42	7 Q. Not a formal investigation, but some sort of	02:45	7 Q. So is your interpretation of the log that
02:42	8 informal investigation?	02:45	8 there is an ongoing problem with urine ending up on the
02:42	9 A. Right. And then I would expect if you raise	02:45	9 toilet seat in the women's dorm -- women's restroom at
02:42	10 the issue with the other captains on other shifts, say,	02:45	10 station 54?
02:42	11 hey, this happened the other day, you know, you-all	02:45	11 MS. SULLIVAN: Objection; calls for
02:42	12 need to, you know, get with all of your crew members	02:45	12 speculation.
02:43	13 and you know -- because this has to stop.	02:45	13 Go ahead, and answer.
02:43	14 Q. Let's go back to the log.	02:45	14 A. Okay. As far as ongoing, I don't know, but
02:43	15 Now, the entry at 1800 hours which we	02:45	15 they seem to indicate that it has happened -- it's not
02:43	16 reviewed earlier, is it fair to say that captain Tamez	02:45	16 the first or second time that it's happened.
02:43	17 is reporting to captain Ponce that this is at least the	02:45	17 Now, is it ongoing? I don't know.
02:43	18 third time an issue had come up with regard to a	02:45	18 BY MR. MONTEIRO:
02:43	19 problem in the ladies' bathroom?	02:45	19 Q. But it's happened a couple times, at least?
02:43	20 MS. SULLIVAN: Objection; calls for	02:45	20 A. That's what they are indicating, yes.
02:43	21 speculation.	02:46	21 Q. Okay. So from the log entry would you say
02:43	22 Go ahead, and answer.	02:46	22 it appeared that Dr. Henschel was trying to document
02:43	23 BY MR. MONTEIRO:	02:46	23 the issue, but he had not been able to immediately
02:43	24 Q. Is that your interpretation?	02:46	24 resolve the issue?
02:43	25 MS. SULLIVAN: Objection; calls for	02:46	25 MS. SULLIVAN: Objection; calls for

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02:46	1 speculation.	02:49	1 A. At any time Draycott can go to OIG.
02:46	2 Go ahead, and answer.	02:49	2 BY MR. MONTEIRO:
02:46	3 A. He is documenting it.	02:50	3 Q. I understand that.
02:46	4 BY MR. MONTEIRO:	02:50	4 A. And I think sometimes, you know, the
02:46	5 Q. And from the 1800 entry, it's happened at	02:50	5 employee would rather, hey, can we -- can we work this
02:46	6 least two other times, right?	02:50	6 out? So you know, there is not exactly a trigger point
02:46	7 A. That's what he is saying, yes.	02:50	7 that if this amount of time goes by, captain, you must
02:46	8 Q. So that means that he wasn't immediately	02:50	8 now send this employee to OIG.
02:46	9 able to resolve it, fair?	02:50	9 What if the employee doesn't want to
02:46	10 MS. SULLIVAN: Objection; calls for	02:50	10 go?
02:46	11 speculation.	02:50	11 Q. Again, I don't think you are answering my
02:46	12 Go ahead, and answer.	02:50	12 question.
02:47	13 BY MR. MONTEIRO:	02:50	13 The question I have is: Under the
02:47	14 Q. You can answer.	02:50	14 complaint policy we reviewed earlier --
02:47	15 A. Okay. Right. It apparently was not	02:50	15 A. Right.
02:47	16 resolved after the first time he was notified.	02:50	16 Q. -- should captain Henschel have directed
02:47	17 Q. And according to the complaint policy that	02:50	17 Ms. Draycott to OIG or staff services since this issue
02:47	18 we had reviewed earlier, if captain Henschel wasn't	02:50	18 had come up at least three times?
02:47	19 able to resolve the issue immediately, the correct	02:51	19 MS. SULLIVAN: Objection; asked and
02:47	20 procedure would be for him to direct Ms. Draycott to	02:51	20 answered and same objection to this line of questioning
02:47	21 either OIG or staff services. Is that correct?	02:51	21 that I have already stated on the record.
02:47	22 MS. SULLIVAN: Objection -- let's see,	02:51	22 Go ahead, and answer.
02:47	23 hold on for a second -- improper hypothetical, calls	02:51	23 BY MR. MONTEIRO:
02:47	24 for speculation, mischaracterizes the evidence.	02:51	24 Q. Does the policy require it? I can show you
02:47	25 Go ahead, and answer.	02:51	25 the policy again if you like.
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02:47	1 A. Okay. Well, I think -- I think the language	02:51	1 A. No. I remember what it says.
02:47	2 in the complaint policy is basically someone brings me	02:51	2 That's kind of open to interpretation.
02:48	3 a complaint about an event, an action, and you know, if	02:51	3 What is -- what's the boundary between
02:48	4 you are not able to resolve it, right, then you advise	02:51	4 employee and officer trying to find a solution? And
02:48	5 the employee to take it to OIG.	02:51	5 okay. So then -- when does it become an unresolved?
02:48	6 Now, you know, apparently the captains	02:51	6 When is the requirement for the officer to direct the
02:48	7 were trying to resolve it by communicating with the	02:51	7 employee?
02:48	8 captains, their colleagues on the other shifts, you	02:51	8 I know what the guideline says, but in
02:48	9 know: Hey, you know, this needs to stop. We don't	02:51	9 practice, if the employee is satisfied that they are
02:48	10 know -- we don't know who. We don't know when.	02:52	10 working on it, okay, so anytime in there, an employee
02:48	11 But it's -- it's not -- there are other	02:52	11 can go to OIG.
02:48	12 people besides firefighters, okay? There are airport	02:52	12 Q. Well, I think you agreed earlier that the
02:49	13 workers who come through, police officers, contractors,	02:52	13 policy is -- uses language shall, right?
02:49	14 you know. So there is a number of possibilities other	02:52	14 A. Yes.
02:49	15 than firefighters.	02:52	15 Q. It's not discretionary, correct?
02:49	16 BY MR. MONTEIRO:	02:52	16 A. Right.
02:49	17 Q. I understand that, but my question was: If	02:52	17 Q. And it says if a complaint cannot be
02:49	18 this problem had raised itself at least three times,	02:52	18 resolved immediately, the employee shall instruct the
02:49	19 which I think you agreed it had according to the log,	02:52	19 complaining party to forward their complaint to either
02:49	20 should captain Henschel have directed Ms. Draycott to	02:52	20 OIG or staff services, correct?
02:49	21 staff services or OIG because the complaint hadn't been	02:52	21 MS. SULLIVAN: Where are you looking?
02:49	22 resolved immediately?	02:52	22 MR. MONTEIRO: Looking back at
02:49	23 MS. SULLIVAN: Same objection I had to	02:52	23 exhibit 5, I think.
02:49	24 this question before.	02:52	24 MS. SULLIVAN: Where specifically?
02:49	25 Go ahead, and answer.	02:52	25 MR. MONTEIRO: Subsection B and

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02:52	1 subsection C.	02:56	1 MR. MONTEIRO: It hasn't been answered.
02:52	2 MS. SULLIVAN: Of 6.01?	02:56	2 MS. SULLIVAN: Oh, it has, more than
02:52	3 MR. MONTEIRO: 6.01.	02:56	3 once.
02:52	4 BY MR. MONTEIRO:	02:56	4 But go ahead, and answer.
02:52	5 Q. You can pull that out too, chief. It might	02:56	5 A. Right. Well, as -- as I have tried to
02:52	6 be easier.	02:56	6 describe it -- I am not maybe doing a good job
02:53	7 So why don't you review	02:56	7 describing it.
02:53	8 subsection 6.01B and C and let me know when you have	02:56	8 But there is a difference between, you
02:53	9 had a chance to re-review those sections.	02:56	9 know, hey, this is really serious and it needs to go
02:53	10 A. I was trying to remember where it said.	02:56	10 and an employee might -- I don't know what the
02:53	11 Q. I am looking at page HOU 2823.	02:56	11 conversation between Draycott and Henschel was earlier
02:53	12 A. Coaching -- no, I have got the wrong	02:57	12 in the day.
02:53	13 document. Complaints. There we go. There we go.	02:57	13 But if the employee says, hey, look, I
02:54	14 Well, I mean --	02:57	14 don't want to -- I don't want to say anything, you
02:54	15 Q. Have you had a chance to review subsection B	02:57	15 know, don't tell anybody, but I am just telling you
02:54	16 and C of 6.01?	02:57	16 that, you know, that there is a problem, okay? Then --
02:54	17 A. Yes.	02:57	17 then --
02:54	18 Q. Okay. So I think you agreed earlier that	02:57	18 THE WITNESS: Are you okay?
02:54	19 the language in subsection B and C, it's	02:57	19 MR. CAPODICE: I am okay. I am good.
02:54	20 nondiscretionary, correct?	02:57	20 I am listening. Sorry. I am sitting like that. My
02:54	21 A. Yes.	02:57	21 bad.
02:54	22 Q. It says shall?	02:57	22 THE WITNESS: I have been in cardiac
02:54	23 A. Yes.	02:57	23 arrests in a situation like this before.
02:54	24 Q. Then when we talked about what resolved	02:57	24 BY MR. MONTEIRO:
02:54	25 immediately was, I think you said if a complaint	02:57	25 Q. I understand that. I am just asking you
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02:54	1 reoccurred -- you can correct me if I'm wrong -- if a	02:57	1 based on what's in this log --
02:54	2 complaint was reoccurring more than once, that means	02:57	2 A. Right.
02:54	3 that it hadn't been resolved immediately. Is that	02:57	3 Q. -- whether or not she should have been
02:54	4 correct?	02:57	4 directed to OIG or staff services?
02:54	5 A. There are a lot of possibilities and	02:57	5 MS. SULLIVAN: Again, asked and
02:55	6 circumstances. So -- but technically, yes, that is	02:58	6 answered. Just because you don't like the answer does
02:55	7 correct. If it happens again, it hasn't been resolved.	02:58	7 not mean he hasn't answered it. So....
02:55	8 Q. Okay. So we can go back to exhibit 6 with	02:58	8 MR. MONTEIRO: It hasn't been answered.
02:55	9 that testimony in mind.	02:58	9 MS. SULLIVAN: It's the third or fourth
02:55	10 The -- the entry at 1800 hours is	02:58	10 time.
02:55	11 captain Henschel recording that there is a	02:58	11 MR. MONTEIRO: He keeps offering
02:55	12 communication between senior captain Tamez and senior	02:58	12 alternative scenarios that haven't been asked about.
02:55	13 captain Ponce that there is a problem in the women's	02:58	13 MS. SULLIVAN: Yes, so --
02:55	14 bathroom, and it's happened -- it's not the first or	02:58	14 MR. MONTEIRO: I'm going to keep asking
02:55	15 second time it's happened. Is that fair?	02:58	15 it until my question is answered. You can object as
02:55	16 A. Yes.	02:58	16 long as you wish.
02:55	17 Q. So -- and Ms. Draycott had complained about	02:58	17 MS. SULLIVAN: And I will stop the
02:56	18 it earlier in the day to captain Henschel, right?	02:58	18 deposition if we are going to spend the rest of the day
02:56	19 A. Yes.	02:58	19 on this one question. He has answered it.
02:56	20 Q. So if that's what's going on under the	02:58	20 MR. MONTEIRO: He has not answered it.
02:56	21 complaint policy we just looked at, would you agree	02:58	21 MS. SULLIVAN: Yes. He says that there
02:56	22 that Ms. Draycott should have been -- should have been	02:58	22 is a possibility. It depends on the situation. You
02:56	23 directed to either OIG or staff services at this point?	02:58	23 are asking him about log entries that he has not seen
02:56	24 MS. SULLIVAN: Objection; asked and	02:58	24 before, that he doesn't know the background information
02:56	25 answered, calls for speculation, improper hypothetical.	02:58	25 on, and you are asking him to speculate.

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02:58	1	So this is -- this is the problem that	03:01	1	Q. And is this the type of documentation that's
02:58	2	I have with this line of questioning.	03:01	2	in exhibit 6 that you had asked to be kept?
02:58	3	You can answer it again.	03:01	3	A. I just kind of remember asking him: Okay.
02:58	4	But counselor, I will ask you to move	03:01	4	So are you documenting this stuff?
02:58	5	on.	03:01	5	Oh, yeah, yeah, yes, I am.
02:58	6	A. And the answer is maybe. He absolutely	03:01	6	Okay, because that's important.
02:58	7	could have said, okay, Draycott, it's time to go to	03:02	7	So this -- this would meet my
02:59	8	OIG. He certainly could have.	03:02	8	expectations, yes.
02:59	9	BY MR. MONTEIRO:	03:02	9	Q. Okay. If a male firefighter was using the
02:59	10	Q. That would -- that could -- that would have	03:02	10	women's bathroom at station 54, would you consider that
02:59	11	been an appropriate -- strike that.	03:02	11	to be harassing behavior toward Ms. Draycott in this
02:59	12	Had he done that, that would have been	03:02	12	case?
02:59	13	in compliance with the complaint policies we reviewed	03:02	13	MS. SULLIVAN: Objection; calls for a
02:59	14	earlier, correct?	03:02	14	legal conclusion, improper hypothetical.
02:59	15	MS. SULLIVAN: Objection; calls for	03:02	15	You can go ahead and answer.
02:59	16	speculation.	03:02	16	A. Well, I think we have kind of been
02:59	17	Go ahead, and answer.	03:02	17	through -- I would consider it improper, rude, gross.
02:59	18	A. Yes, if that's -- if that meets the	03:02	18	It could be harassing.
02:59	19	employee's expectations, also. If the employee says I	03:02	19	BY MR. MONTEIRO:
02:59	20	don't want to file a grievance, I don't want to file a	03:02	20	Q. And if it was done with the intention of
02:59	21	complaint, I just want it handled, well, okay.	03:02	21	driving either Ms. Draycott or Ms. Keyes away from the
02:59	22	Then how does that fit with the -- the	03:02	22	station, could that be harassing or discriminatory?
02:59	23	complaint guideline?	03:02	23	MS. SULLIVAN: Objection; calls for a
02:59	24	BY MR. MONTEIRO:	03:03	24	legal conclusion, improper hypothetical, calls for
03:00	25	Q. The guideline doesn't force the officer	03:03	25	speculation.
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03:00	1	to -- sorry. Strike that.	03:03	1	Go ahead, and answer.
03:00	2	The guideline doesn't require the	03:03	2	A. Okay. So if it was done with the intention
03:00	3	officer to order the employee to OIG, right?	03:03	3	of driving them out of the station, would I consider
03:00	4	A. To direct the employee --	03:03	4	that --
03:00	5	Q. Right.	03:03	5	BY MR. MONTEIRO:
03:00	6	A. -- to OIG.	03:03	6	Q. Harassing or discriminatory?
03:00	7	Q. Right. Is that an order in your mind? Is	03:03	7	MS. SULLIVAN: Same objection.
03:00	8	that the same as ordering them?	03:03	8	A. Okay. Well, if -- assuming all those things
03:00	9	MS. SULLIVAN: Objection; vague.	03:03	9	to be present and true, yes.
03:00	10	BY MR. MONTEIRO:	03:03	10	BY MR. MONTEIRO:
03:00	11	Q. Or is that making them aware of that option,	03:03	11	Q. Do you know if captain Henschel reported the
03:00	12	if you know?	03:03	12	incidents that he recorded in this log on May 12th of
03:00	13	A. Some people could interpret it as a	03:03	13	2009 to you?
03:00	14	directive, as an order.	03:03	14	A. I don't remember if he did that day. It
03:00	15	Q. What's your interpretation?	03:03	15	seems like at some point I got an e-mail.
03:00	16	A. I have been around a few years.	03:03	16	Q. Is that -- when you got the e-mail, was that
03:00	17	My interpretation is that you make the	03:03	17	the first time you learned of -- excuse me -- was that
03:00	18	employee aware of this is the process and you know,	03:03	18	the first time you learned of Ms. Draycott's
03:00	19	this could fit and it -- if you want to pursue, you	03:04	19	complaints?
03:01	20	know, a formal complaint, this is how you do it and	03:04	20	A. I don't remember. I mean, I -- I don't
03:01	21	this is where you go.	03:04	21	remember when or how I first learned of her complaints
03:01	22	Q. Okay. You mentioned earlier that you had a	03:04	22	specific to urine on the toilet seats.
03:01	23	conversation at some point with captain Henschel about	03:04	23	Q. Would you have wanted to know about the
03:01	24	documenting Ms. Draycott's complaints. Is that right?	03:04	24	events that are recorded in the log from May 12th on
03:01	25	A. Yes.	03:04	25	the day that they occurred?

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03:04	1	A. I would say that's significant, but if --	03:07	1	A. Yes.
03:04	2	you know, if the captains were able to get together,	03:07	2	Q. So he would have come on duty at 6:30 that
03:05	3	let's just say some crew members said, okay, I am	03:07	3	morning?
03:05	4	sorry, I will never do it again, then, you know, they	03:07	4	A. Yes.
03:05	5	kind of get some resolution.	03:07	5	Q. And under your inspection policy captain
03:05	6	But again, we don't know that it was a	03:08	6	Henschel would have inspected the women's bathroom
03:05	7	crew member.	03:08	7	at -- when he came on duty that morning at 6:30 that
03:05	8	Q. So would you have wanted to know that this	03:08	8	morning, correct?
03:05	9	situation was going on on May 12th of 2009?	03:08	9	MS. SULLIVAN: Objection;
03:05	10	MS. SULLIVAN: Objection; calls for	03:08	10	mischaracterizes his testimony.
03:05	11	speculation.	03:08	11	Go ahead, and answer.
03:05	12	Go ahead.	03:08	12	A. He was -- every shift's responsibility to
03:05	13	A. Yes. You know, if -- if something was	03:08	13	inspect and clean all areas of the station daily.
03:05	14	documented that it was not the first or second time,	03:08	14	These are done at 6:30, at 7:00, 7:30.
03:05	15	then, yes, I would want to know about that.	03:08	15	You know, first things first,
03:05	16	BY MR. MONTEIRO:	03:08	16	operational redness. You check out your gear, check
03:05	17	Q. If we can flip to the next entry in the log	03:08	17	out your truck. You know, does everything work? Okay?
03:05	18	which is from May 18, 2009, starts on 146514.	03:08	18	Once you have got all that, then you
03:06	19	MS. SULLIVAN: I have to take a quick	03:08	19	can move onto the station. So what time they start
03:06	20	break to respond to an e-mail, so when you get to a	03:08	20	inspecting and cleaning the station varies depending on
03:06	21	stopping point --	03:09	21	how long the morning equipment check takes.
03:06	22	MR. MONTEIRO: Okay.	03:09	22	BY MR. MONTEIRO:
03:06	23	BY MR. MONTEIRO:	03:09	23	Q. What was your intention of when the
03:06	24	Q. Are you there at the May 18th entry, sir?	03:09	24	inspection would take place when you issued the -- when
03:06	25	A. Yes.	03:09	25	you issued the policy?
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03:06	1	Q. If you could turn to the next -- the events	03:09	1	A. As soon as practical.
03:06	2	of the day entry, and if we look at the entry at 7:00,	03:09	2	Q. And the idea, I guess, is that you want --
03:06	3	7:00 p.m., it says, quote, EJ Draycott reported urine	03:09	3	don't want too much time to pass because if there is a
03:06	4	again on toilet of ladies' bathroom witnessed by	03:09	4	problem, you want to be able to identify when it
03:06	5	captain Henschel.	03:09	5	occurred, correct?
03:06	6	Do you see that?	03:09	6	MS. SULLIVAN: Objection; calls for
03:06	7	A. Yes.	03:09	7	speculation.
03:06	8	Q. Would this have been the next shift for	03:09	8	Go ahead, and answer.
03:06	9	Ms. Draycott follow following the May 12th shift that	03:09	9	A. We want to identify problems as soon as we
03:06	10	we just reviewed, if you know?	03:10	10	can.
03:07	11	A. Probably, because that would be five days	03:10	11	BY MR. MONTEIRO:
03:07	12	off in between shifts.	03:10	12	Q. Do you know if captain Henschel made you
03:07	13	Q. And she is reporting at 7:00 p.m., correct?	03:10	13	aware of this incident on May 18th of 2009?
03:07	14	MS. SULLIVAN: Objection; calls for	03:10	14	A. I don't remember. Like I have said before,
03:07	15	speculation.	03:10	15	I don't remember when Henschel made me aware. It seems
03:07	16	BY MR. MONTEIRO:	03:10	16	like I recall an e-mail.
03:07	17	Q. Well, the log reflects that there is an	03:10	17	Q. Okay. And is this something that you would
03:07	18	entry --	03:10	18	have wanted to be aware of, given that it's reoccurring
03:07	19	A. The log says it's 0700.	03:11	19	on a somewhat frequent basis?
03:07	20	Q. Okay. That's 7:00 a.m., sorry.	03:11	20	A. I wouldn't say somewhat frequently.
03:07	21	A. Right.	03:11	21	Based on the last captain's log, you
03:07	22	Q. Correct?	03:11	22	know, I think I said, yes, you know, they are saying
03:07	23	A. Yes.	03:11	23	it's not the first or second time. I had said, yes, I
03:07	24	Q. Okay. Now, the oncoming captain that	03:11	24	would want to know about that. If this was a
03:07	25	morning was captain Henschel, correct?	03:11	25	subsequent, yes, I would want to know about that.

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03:11	1	Q. And then if we could go to the next log.	03:27	1	do you do with this?
03:11	2	MR. MONTEIRO: Actually, let's go off	03:27	2	Essentially there was: Well, tell
03:11	3	the record for a minute.	03:27	3	people not to do that.
03:11	4	THE VIDEOGRAPHER: 3:11, off record.	03:27	4	That was the guidance I got.
03:11	5	(Recess from 3:11 to 3:23 p.m.)	03:27	5	Q. Who gave you that guidance?
03:23	6	THE VIDEOGRAPHER: 3:23, back on the	03:27	6	A. Chief Snell.
03:23	7	record, disk 5.	03:27	7	Q. All right. Did you respond to captain
03:24	8	MS. COHEN: Are we in the course of	03:27	8	Henschel's e-mail by e-mail?
03:24	9	discussing an exhibit so I know where we are?	03:27	9	A. I don't recall.
03:24	10	MR. MONTEIRO: We just finished	03:27	10	Q. Do you remember if you spoke to him by
03:24	11	discussing exhibit 6, and I just asked the court	03:27	11	telephone in response to the e-mail?
03:24	12	reporter to mark exhibit 7.	03:27	12	A. I don't remember if it was telephone or in
03:24	13	MS. COHEN: All right. Thank you.	03:27	13	person. You know, it would seem like I would prefer to
03:24	14	(Exhibit 7 marked.)	03:28	14	talk to someone in person.
03:24	15	BY MR. MONTEIRO:	03:28	15	Q. Do you remember if you went to the station
03:24	16	Q. Chief, you mentioned a couple times earlier	03:28	16	to talk to him?
03:24	17	that you remember captain Henschel sending you an	03:28	17	A. That's what I -- that's what I am saying. I
03:24	18	e-mail about some of the issues Ms. Draycott was	03:28	18	don't remember.
03:24	19	reporting to him.	03:28	19	Q. Okay. So the direction -- you testified
03:24	20	I am showing you what's been marked as	03:28	20	that you took it up to assistant chief Snell, and the
03:24	21	deposition exhibit 7, which is Bates stamped as	03:28	21	direction you got from assistant chief Snell was to
03:25	22	HOU 5981.	03:28	22	tell people not to go in there, correct?
03:25	23	Is this the e-mail you have been	03:28	23	A. That's my recollection, yes.
03:25	24	referencing?	03:28	24	Q. How did you communicate that direction to
03:25	25	A. Yes.	03:28	25	captain Henschel?
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03:25	1	Q. And is this the -- was this the first	03:28	1	A. I really don't remember.
03:25	2	written communication you received from captain	03:28	2	Q. Well, let me step back for a minute.
03:25	3	Henschel regarding issues that Ms. Draycott was having	03:28	3	A. Okay.
03:25	4	at station 54?	03:28	4	Q. Do you remember communicating that direction
03:25	5	A. I don't remember if there was -- if there	03:28	5	to captain Henschel?
03:25	6	was anything else.	03:28	6	A. Not specifically. You know, I would have
03:25	7	Q. You don't remember receiving anything else.	03:28	7	gone back to, really, the senior captains and, okay,
03:25	8	Is that fair?	03:29	8	what's going on here?
03:25	9	A. No. I think I said I don't remember if	03:29	9	That's -- that's what I believe I did.
03:25	10	there was anything else.	03:29	10	Q. Do you remember providing captain Snell --
03:25	11	Q. Is there anything that comes to mind?	03:29	11	sorry.
03:25	12	A. No. I am not saying that there wasn't. I	03:29	12	Do you remember providing chief Snell's
03:25	13	just -- I don't remember. It's been over 10 years.	03:29	13	directive to senior captain Tamez?
03:26	14	Q. And what was your response to captain	03:29	14	A. I can't remember specifically.
03:26	15	Henschel when you received the e-mail that's marked as	03:29	15	Q. And by the way, how would you communicate
03:26	16	exhibit 7?	03:29	16	with assistant chief Snell at the time? Was it by
03:26	17	A. Well, it seems like probably had to wait	03:29	17	phone or some other means?
03:26	18	until that shift got back to work, kind of got with	03:29	18	A. Generally in person or phone. Sometimes
03:26	19	them to see, okay, well, so what -- what have you-all	03:29	19	e-mail.
03:26	20	done so far? What does captain Tamez think? You have	03:30	20	Q. Did you either -- did you direct either
03:26	21	talked to captain Tamez, you know, I assume. And you	03:30	21	Tamez or Henschel to direct Ms. Draycott to OIG or
03:26	22	know, just running through, okay, so what do we do with	03:30	22	staff services at this time, after you got this e-mail?
03:27	23	this?	03:30	23	A. Probably not.
03:27	24	I remember going to my boss, you know:	03:30	24	Q. Did you yourself direct Ms. Draycott to OIG
03:27	25	This is a puzzler. I have never had this before. What	03:30	25	or staff services after you got this e-mail?

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03:30	1	A. No.	03:34	1	A. No. That would only be station 99.
03:30	2	Q. Did you take any other action in response to	03:34	2	Q. Okay. Did you ever hear of any problems
03:30	3	this e-mail?	03:34	3	happening at station 99?
03:30	4	A. I can't remember specifically, but I -- like	03:34	4	A. Not that I recall.
03:30	5	I said, I believe I got back with at least Henschel and	03:34	5	Q. Now, at some point Ms. Draycott did go to
03:31	6	likely the seniors on the other shifts. That's what I	03:34	6	OIG to file a complaint regarding the conditions of the
03:31	7	vaguely remember doing, to say: Hey, what's going on	03:34	7	women's dorm and bathroom, right?
03:31	8	here?	03:34	8	A. Yes.
03:31	9	Q. Captain Krusleski is also on the e-mail from	03:34	9	Q. And you were made aware of that?
03:31	10	captain Henschel, correct?	03:34	10	A. Probably as a respondent.
03:31	11	A. Correct.	03:34	11	Q. Okay. Let's go back to that captain's log
03:31	12	Q. Do you know, was captain Krusleski involved	03:34	12	that we looked at.
03:31	13	in any of your communications about this e-mail?	03:35	13	A. Okay.
03:31	14	A. Was he involved?	03:35	14	Q. So if I can direct you to HOU 146505.
03:31	15	Q. Well, you said you spoke to -- you said you	03:35	15	A. Okay.
03:31	16	spoke to assistant chief Snell, and then you went back	03:35	16	Q. And if you can review the log entries at
03:31	17	to the folks at the station.	03:35	17	9:00 and 10:00, let me know when you have had a chance
03:31	18	Was captain -- was captain Krusleski	03:35	18	to review that.
03:31	19	involved at all in any of those communications?	03:35	19	A. Okay.
03:32	20	A. I generally told Krusleski, filled him in on	03:36	20	Q. So we are looking at the captain's log for
03:32	21	everything going on.	03:36	21	June 29th of 2009, correct?
03:32	22	Now, did he go with me over to the fire	03:36	22	A. Yes.
03:32	23	station to talk about this? I don't recall how I got	03:36	23	Q. And the 9:00 entry concludes that both
03:32	24	back with Henschel and the seniors. So I don't recall	03:36	24	firefighters stated they would like to go forward with
03:32	25	whether Krusleski was part of that.	03:36	25	their complaint to OIG today. Is that correct?
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03:32	1	Q. Okay. Did you ever receive instruction from	03:36	1	A. Yes.
03:32	2	anyone in the fire department to preserve your e-mails	03:36	2	Q. And then the next entry says captain
03:32	3	regarding Ms. Draycott?	03:36	3	Henschel called and notified D54 chief McAteer of the
03:33	4	A. Yes.	03:36	4	situation, correct?
03:33	5	Q. What were you told with respect to	03:36	5	A. Yes.
03:33	6	preserving your e-mails?	03:36	6	Q. So do you remember captain Henschel calling
03:33	7	A. Basically to preserve e-mails and any	03:36	7	you and telling you that Draycott and Keyes had gone to
03:33	8	relevant documents.	03:36	8	OIG to file a complaint?
03:33	9	Q. And exhibit 7, would you consider that a	03:36	9	A. Vaguely remember. But okay, I will -- I
03:33	10	relevant document?	03:37	10	will agree that he did that.
03:33	11	A. Yes.	03:37	11	Q. In 2009 OIG was in charge of investigating
03:33	12	Q. Do you know -- do you have any -- strike	03:37	12	discrimination complaints, right?
03:33	13	that.	03:37	13	A. Yes.
03:33	14	Do you know why this e-mail was not	03:37	14	Q. What did captain Henschel tell you when he
03:33	15	found in your e-mail in box when it was searched in	03:37	15	called you at 10:00 a.m.?
03:33	16	connection with this litigation?	03:37	16	A. I don't recall specifically, but reading the
03:33	17	A. No.	03:37	17	log entry, I remember something about speakers -- you
03:33	18	Q. Do you remember deleting it?	03:37	18	know, the speakers being turned down and that they want
03:33	19	A. No, I do not.	03:37	19	to -- they want to go file a complaint.
03:33	20	Q. We have been talking about some of the	03:37	20	So okay. That probably sounds like a
03:34	21	problems that happened at station 54 regarding the	03:37	21	good idea.
03:34	22	women's dorm and bathroom.	03:37	22	Q. Did captain Henschel ever tell you that he
03:34	23	Did you ever hear of similar complaints	03:37	23	thought Ms. Draycott was making up some of the
03:34	24	at either -- at any of the other ARFF stations that	03:38	24	complaints she was reporting to him?
03:34	25	have dedicated women's dorms and bathrooms?	03:38	25	A. No.

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03:38	1 Q. Did he ever tell you whether he had actually	03:41	1 him in there. He acknowledged that he found something
03:38	2 observed urine in the women's bathroom when	03:42	2 out of the ordinary?
03:38	3 Ms. Draycott had called him in to inspect?	03:42	3 A. Yes.
03:38	4 A. It seemed like early on he would say when I	03:42	4 Q. Okay. Did you have any involvement in OIG's
03:38	5 went to go -- wanted her to show me, she said she	03:42	5 investigation into Ms. Draycott's complaint regarding
03:38	6 already fixed it, already cleaned it up.	03:42	6 the bathroom and the dorm use?
03:38	7 So -- but according to the log entries,	03:42	7 A. Involvement? I mean, there were -- there
03:38	8 apparently later on, you know, I guess he was able to	03:42	8 were a number of complaints.
03:38	9 witness some of the stuff.	03:42	9 Q. Okay.
03:39	10 Q. Did you speak with your captains about the	03:42	10 A. I remember writing several responses.
03:39	11 fact that Ms. Keyes and Ms. Draycott had filed an OIG	03:42	11 Q. Let me see if I can clarify.
03:39	12 complaint?	03:42	12 The log -- the log that we are looking
03:39	13 A. I don't believe so. That wouldn't -- why	03:42	13 at indicates that on June 29th Ms. Draycott filed a
03:39	14 would I do that?	03:42	14 complaint, an OIG complaint, right?
03:39	15 No, I don't. I don't recall telling	03:42	15 A. Right.
03:39	16 captains: Hey, they went and filed a complaint.	03:42	16 Q. And that was related to the conditions of
03:39	17 No.	03:42	17 the women's dorm and women's bathroom that we have seen
03:39	18 Q. Well, it was in the log, right? The	03:42	18 in the earlier dates in the log were reoccurring from
03:39	19 captains knew they had gone to OIG?	03:42	19 time to time?
03:39	20 A. Right.	03:42	20 A. Right.
03:39	21 Q. So I am just wondering if you had a more	03:42	21 Q. Do you know if you had any involvement in
03:39	22 substantive conversation with your captains about any	03:43	22 OIG's investigation into that complaint?
03:39	23 steps that should be taken regarding the situation, or	03:43	23 A. I don't recall. If you have documents that
03:40	24 was the idea just to wait for OIG to make a	03:43	24 say I was a respondent or -- I mean, I had no role in
03:40	25 determination?	03:43	25 investigating it, if that's what you are asking.
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03:40	1 A. Well, there were several times I recall	03:43	1 Q. That's what I am asking, yeah.
03:40	2 meeting with -- exactly who I don't remember, but	03:43	2 A. Oh, oh, no, no, no.
03:40	3 officers at station 54 and just letting them know that,	03:43	3 Q. I know you said earlier that sometimes you
03:40	4 look, I don't know what's going on over here, but you	03:43	4 were asked to investigate --
03:40	5 guys need to be as engaged as you possibly can to make	03:43	5 A. Right.
03:40	6 sure guys, whether they are firefighters or airport	03:43	6 Q. -- by OIG?
03:40	7 employees or whoever, are staying out of the women's	03:43	7 A. Right.
03:40	8 quarters. You know, asking them, okay, what are your	03:43	8 Q. But not for this particular --
03:40	9 ideas? You know, how can we make sure this -- this	03:43	9 A. Oh, yeah, no, no, no, no.
03:41	10 stops?	03:43	10 Q. Is that because there would have been a
03:41	11 Q. I asked you earlier about whether captain	03:43	11 conflict if you --
03:41	12 Henschel had spoken to you about whether or not he had	03:43	12 A. No. I think it's the nature of the alleged
03:41	13 found urine in the women's bathroom.	03:43	13 offense --
03:41	14 And I think you said the logs -- you	03:43	14 Q. Okay.
03:41	15 said early on he said that by the time he had gone in	03:43	15 A. -- you know, possibly --
03:41	16 there, Ms. Draycott had cleaned it up, right?	03:43	16 Q. Because it was discrimination?
03:41	17 A. Right.	03:43	17 A. -- discrimination. So if that's ever a
03:41	18 Q. Did he ever acknowledge that to you, that he	03:43	18 factor, then that's not a staff services issue.
03:41	19 had found urine in -- on the women's toilet seat when	03:43	19 Q. That's in OIG's purview?
03:41	20 Ms. Draycott called him in there?	03:43	20 A. Yes.
03:41	21 A. I don't recall him ever saying: I saw	03:43	21 Q. Okay. Did you ever become aware that other
03:41	22 urine.	03:44	22 women had reported to OIG that they had made -- that
03:41	23 You know, he said: Well, there was --	03:44	23 they had made similar complaints as Ms. Draycott
03:41	24 there was something.	03:44	24 regarding the women's dorm and women's bathroom at
03:41	25 Q. Okay. He found something when she called	03:44	25 station 54?

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03:44	1 A. I don't remember specifically. It seems	03:47	1 Q. Do you know if it was -- if he was telling
03:44	2 like I kind of became aware or heard that, oh, you	03:47	2 you to do this because of the OIG complaint?
03:44	3 know, somebody else said -- yeah, same thing happened	03:47	3 A. No, I don't. It was just a conversation:
03:44	4 to me or I saw the same thing.	03:47	4 You know, chief, I don't -- I am at my wit's end, you
03:44	5 I don't remember who they were or	03:47	5 know. How can we -- what do we do?
03:44	6 whether it was just 54 or -- I don't recall.	03:47	6 Q. I want to shift our focus to the -- a little
03:44	7 Q. Do you remember hearing that Nefatari	03:47	7 bit and discuss the layout of the women's dorm and
03:44	8 Alexander had had -- had made similar reports as	03:47	8 bathroom at station 54.
03:45	9 Ms. Draycott?	03:48	9 Now, at some point the women's dorm at
03:45	10 A. Like I said, I don't remember who -- who	03:48	10 54 was modified. Is that correct?
03:45	11 said what. You know, I just recall that some others	03:48	11 A. Sometime before I returned -- and I think it
03:45	12 had -- had raised, you know, similar complaints.	03:48	12 was still ongoing when I returned in July of '15.
03:45	13 Q. And how did you learn of that?	03:48	13 Q. The modification was ongoing in July of
03:45	14 A. Like I said, I -- I don't recall how or	03:48	14 2015?
03:45	15 when, but I -- either fire station conversation or it	03:48	15 A. Yes.
03:45	16 may have been on the news. It seemed like a lot of	03:48	16 Q. And do you know who made the determination
03:45	17 the -- you know, it was on public media.	03:48	17 to modify the women's dorm at station 54?
03:45	18 Q. Now, were you made aware of the outcome of	03:48	18 A. The ARFF chief before me was Tim Neil. So
03:45	19 the OIG investigation into Ms. Draycott's and	03:49	19 as I understand it, he got with the airport maintenance
03:45	20 Ms. Keyes' complaints regarding the dorm and bathroom?	03:49	20 group to get this done.
03:45	21 A. I am not on the distribution list for any	03:49	21 Q. Do you know why the station was modified?
03:45	22 notifications.	03:49	22 A. Well, the addition of the chief took up
03:46	23 Q. I think you told me earlier that -- that	03:49	23 officer quarters.
03:46	24 that type of finding would typically go to the fire	03:49	24 Q. You are talking about when the district
03:46	25 chief and the fire chief would direct it to you, if	03:49	25 chief was assigned to station 54?
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03:46	1 necessary. Is that right?	03:49	1 A. Yes, because prior to July 2015, there was
03:46	2 A. Yes.	03:49	2 not a district chief assigned at station 54.
03:46	3 Q. Okay. So --	03:49	3 So that was -- that was what prompted
03:46	4 A. Well, he would give me directions on what to	03:49	4 my return, because someone has to supervise the
03:46	5 do going forward.	03:49	5 district chiefs, all right? So they needed officer
03:46	6 Q. Got it.	03:50	6 quarters at station 54.
03:46	7 A. He would not pass on what was in the	03:50	7 And they thought it was a good idea,
03:46	8 findings.	03:50	8 since the women's dorm was underused, cut it in half,
03:46	9 Q. Do you remember receiving directions from	03:50	9 you know, floor to ceiling, insulate the wall. And one
03:46	10 either chief Boriskie or chief Flanagan as to what to	03:50	10 side is the senior captain; the other side is the
03:46	11 do going forward following Ms. Draycott's OIG	03:50	11 women's dorm.
03:46	12 complaint?	03:50	12 Q. Okay. So how many women firefighters can
03:46	13 A. No. It was just -- just another reminder	03:50	13 station 54 currently accommodate?
03:46	14 to, well, just have them inspect and clean all areas of	03:50	14 A. Well, it all depends when they rank.
03:46	15 the station daily.	03:50	15 Q. I am sorry. I said firefighters.
03:46	16 Q. I am sorry. Do you have a memory of that,	03:50	16 A. Firefighters.
03:46	17 of chief Boriskie or chief Flanagan directing you	03:50	17 Q. Meaning upper case firefighter, I guess.
03:47	18 that -- to do that?	03:50	18 A. Okay. I would say two in private quarters.
03:47	19 A. No. That was from chief Snell.	03:50	19 There is the women's dorm, and then there is a watch
03:47	20 Q. Okay. Where -- do you know where chief	03:51	20 office. Both can be locked. Both have access to a
03:47	21 Snell got that information from?	03:51	21 private restroom.
03:47	22 A. No.	03:51	22 Q. So the women's dorm has one bed. Is that
03:47	23 Q. Did he tell you that that was because of the	03:51	23 correct?
03:47	24 OIG complaint?	03:51	24 A. One bed, yes.
03:47	25 A. No.	03:51	25 Q. And the watch office?

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03:51	1	A. One bed.	03:54	1	Q. How about Graciela Oliveras? Does she work
03:51	2	Q. One bed. And when you say they both can be	03:55	2	at station 54?
03:51	3	locked, you are referring to -- from the interior,	03:55	3	A. I think she was assigned in to 92, but debit
03:51	4	correct?	03:55	4	date, overtime day --
03:51	5	A. Yes.	03:55	5	Q. She might have filled in there?
03:51	6	Q. What are -- if -- if someone is sleeping in	03:55	6	A. Yes.
03:51	7	the watch office, are they on watch office duty -- let	03:55	7	Q. How about Tina Mulligan?
03:51	8	me start over.	03:55	8	A. She is assigned to 92.
03:51	9	If a woman is assigned to be in the	03:55	9	Q. And Laurie Woods?
03:51	10	watch office, does that put her on watch office duty	03:55	10	A. Assigned to 99. She is off injured.
03:51	11	automatically?	03:55	11	Q. Okay. So sitting here today, can you
03:51	12	A. Yes.	03:55	12	identify any women firefighters, capital letter, who
03:51	13	Q. Have there been any women permanently	03:55	13	have been assigned to station 54 permanently since
03:52	14	assigned to station 54 since Ms. Draycott left in 2010?	03:55	14	2010?
03:52	15	A. I don't know. I would have to check a	03:55	15	A. Well, I wasn't there from 2010 to 2015. I
03:52	16	roster.	03:55	16	would have to go back and look to see. I can't -- I
03:52	17	Q. Earlier I think you said Lisa Campbell is	03:55	17	don't know who was assigned there from 2010 to 2015.
03:52	18	the district chief at 54, right?	03:56	18	Q. Okay. That's fair; that's fair. I forgot
03:52	19	A. Yes. I didn't say her name, but....	03:56	19	about that.
03:53	20	Q. Sorry, okay. I think you did, but that's --	03:56	20	And is the prohibition against men
03:53	21	when I asked you who the district chiefs were, I think	03:56	21	using the women's dorm and bathroom at station 54 still
03:53	22	you identified her.	03:56	22	in place?
03:53	23	A. Oh, yeah, yeah.	03:56	23	A. Yes.
03:53	24	Q. Way at the beginning.	03:56	24	Q. Is the inspection policy still in place?
03:53	25	A. Okay.	03:56	25	A. Yes.
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03:53	1	Q. So she is -- she is currently the district	03:56	1	Q. Have you received any reports of men using
03:53	2	chief at station 54. Is that correct?	03:56	2	the women's dorm since you have been back as district
03:53	3	A. On the C shift.	03:56	3	chief?
03:53	4	Q. And do you know if district chief Campbell	03:56	4	A. I heard them talking about -- when they have
03:53	5	has had any issues with the -- sorry.	03:56	5	extra -- extra personnel, extra rank and there are no
03:53	6	Would district chief Campbell use the	03:56	6	women on duty, you know, they said: Hey, chief, we are
03:53	7	dedicated women's dorm and women's bathroom at	03:56	7	out of beds. We have got nowhere for anyone to go.
03:53	8	station 54, or would she get her own as a district	03:57	8	Huh. You know the history.
03:53	9	chief?	03:57	9	This is what I told the chiefs: You
03:53	10	A. I believe she shares a restroom with the	03:57	10	know the history. I understand the logistical problem
03:53	11	station captain, the -- typically officer quarters, the	03:57	11	that you have got. I tell you what, I guess you have
03:54	12	restrooms -- they call it a Jack and Jill. The	03:57	12	got to do what you have got to do, but make sure -- if
03:54	13	restroom is in between the office quarters.	03:57	13	that's the case, make sure everything is cleaned up to
03:54	14	Q. And would that include shower facilities?	03:57	14	your satisfaction. But there -- there won't be any TV
03:54	15	A. Yes.	03:57	15	watching. This is just for extra rank, officers
03:54	16	I don't know specifically. I believe I	03:57	16	when -- if you don't have a bed somewhere for this
03:54	17	heard her tell me that she just shares the restroom	03:57	17	person to quarter for the night, I guess you have got
03:54	18	attached to her office.	03:58	18	to do what you have got to do.
03:54	19	Q. Okay. And how about Terry Salinas? Was she	03:58	19	Q. How many times has that issue come up?
03:54	20	assigned to station 54 as a captain?	03:58	20	A. I don't know.
03:54	21	A. I have only known her as a captain at	03:58	21	Q. It was brought to your attention once?
03:54	22	station 99.	03:58	22	A. Yes, you know.
03:54	23	Q. Did she complete some sort of internship at	03:58	23	Q. And what was your understanding of why there
03:54	24	station 54?	03:58	24	weren't enough beds?
03:54	25	A. It's possible.	03:58	25	A. Well, I mean, there -- there are only so

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03:58	1 many beds in the fire station. You know, and if they	04:02	1 A. Certainly never saw anything, but I believe
03:58	2 have interns, okay -- now the interns work days. Back	04:02	2 I -- I heard, probably from chief Snell and the news,
03:58	3 then the interns were on shift, okay? So you might	04:02	3 was that the investigation did not identify the person
03:58	4 have two or three interns, you know. These are new	04:02	4 responsible.
03:58	5 personnel learning the job, okay? They are just --	04:02	5 Q. And based on your -- based on your
03:58	6 they are just out of beds. We only have a certain	04:02	6 description of the process earlier, the -- am I correct
03:59	7 limited number of beds.	04:03	7 that the fire chief would have been made aware through
03:59	8 Q. So your understanding is that there has been	04:03	8 OIG of the findings of the investigation?
03:59	9 situations where all the bed -- all the beds in the	04:03	9 A. Now, from OIG, I don't know, because OIG
03:59	10 men's dorms have been fully occupied?	04:03	10 reports to the mayor. And so....
03:59	11 A. Yes.	04:03	11 Q. In 2009, correct?
03:59	12 Q. And that's just come up since you returned	04:03	12 A. Yes, right.
03:59	13 as district chief, right?	04:03	13 So I don't believe they would -- I
03:59	14 A. Right.	04:03	14 don't believe OIG would give the fire chief the results
03:59	15 Q. Correct?	04:03	15 of the investigation.
03:59	16 A. Right.	04:03	16 Q. Okay. But you never learned the results of
03:59	17 Q. Okay. Now, I am going to shift my focus to	04:03	17 the investigation, right?
03:59	18 talk about the day that the racial and gender slurs	04:03	18 A. No details, no.
03:59	19 were found in the women's dorm at station 54?	04:03	19 Q. Were you ever directed to take any sort of
03:59	20 A. Okay.	04:03	20 action or institute any policies in response to the
03:59	21 Q. That was July 7th of 2009, right?	04:03	21 outcome of the OIG investigation?
03:59	22 A. I don't recall what date.	04:03	22 A. No.
03:59	23 Q. Okay. Does that sound about right?	04:03	23 Q. Were there any steps taken to prevent access
04:00	24 A. Yes.	04:03	24 to the women's dorm and bathroom in the future as a
04:00	25 Q. Okay. Are you looking at the log for	04:03	25 result of the investigation?
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04:00	1 July 7th of 2009?	04:04	1 A. No.
04:00	2 A. Yes.	04:04	2 Q. And at some point there was a roll call
04:00	3 Q. In exhibit 5?	04:04	3 where -- when Ms. Draycott returned to station 54 after
04:00	4 A. Yep.	04:04	4 the investigation. Is that right?
04:00	5 Q. Does that reflect that activity?	04:04	5 A. Yes. Call it a roll call, a meeting, sure.
04:00	6 A. Yeah. That's the basics, yes.	04:04	6 Q. Okay. And this was in about January of
04:01	7 Q. And after the racial and gender slurs were	04:04	7 2010?
04:01	8 found in the women's dorm, HPD conducted an	04:04	8 A. Okay. I don't recall -- I don't recall the
04:01	9 investigation, right?	04:04	9 date, but --
04:01	10 A. Yes, from OIG.	04:04	10 Q. Were you still the district chief over ARFF
04:01	11 Q. I assume that you didn't have any role in	04:04	11 in January of 2010?
04:01	12 terms of the investigating?	04:04	12 A. Yes.
04:01	13 A. Correct, right.	04:04	13 Q. And Ms. Draycott was off of work for some
04:01	14 Q. Were you ever kept apprised as to the status	04:04	14 period of time during the investigation and then
04:01	15 of the investigation?	04:04	15 returned at some date?
04:01	16 A. No.	04:04	16 A. Yes.
04:01	17 Q. Did anyone from the fire department speak to	04:04	17 Q. Were you -- did you have any role in the
04:01	18 you about the status of the investigation?	04:05	18 decision for Ms. Draycott to return to station 54 in
04:01	19 A. No. I would ask chief Snell: Have you	04:05	19 January of 2010?
04:02	20 heard anything?	04:05	20 A. No. I was just informed that -- she left
04:02	21 And he would occasionally talk to the	04:05	21 and came back several times.
04:02	22 investigation group, but he said: No, you know, they	04:05	22 But no. I was informed by probably
04:02	23 are still investigating.	04:05	23 chief Snell that they -- you know, that they are going
04:02	24 Q. Okay. Did you ever become aware of the	04:05	24 to put her back to work at 54.
04:02	25 outcome of that investigation?	04:05	25 Q. Did you provide any input into that

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04:05	1 decision?	04:12	1 Q. Okay. So if we look at 5519 --
04:05	2 A. Oh, no, no.	04:12	2 A. Okay.
04:05	3 Q. Do you know who made that decision?	04:12	3 Q. -- it appears that there was a meeting on
04:05	4 A. What I remember from chief Snell was, hey,	04:12	4 January 7th that you attended with the crew of 54 A as
04:05	5 you know -- you know, City legal advises, you know, the	04:12	5 well as several members of command staff. Is that
04:05	6 fire department that this is -- this is what needs to	04:12	6 fair?
04:06	7 happen.	04:12	7 A. Yes.
04:06	8 Q. Were you ever asked for your opinion?	04:12	8 Q. And the crew raised some concerns about
04:06	9 A. No, I was not asked for my opinion. I did	04:12	9 Ms. Draycott's return to work during that meeting,
04:06	10 offer a question: So what has changed?	04:12	10 correct?
04:06	11 And well, you know, the -- this is --	04:12	11 A. Yes.
04:06	12 this is the decision, and so now we have to implement	04:12	12 Q. And you write here that the main concern of
04:06	13 it.	04:12	13 the crew was that the criminal investigation had not
04:06	14 Q. Who did you ask that question of: Chief	04:12	14 been completed and there was no named suspect, right?
04:06	15 Snell?	04:12	15 A. Yes.
04:06	16 A. Chief Snell.	04:12	16 Q. In response to that concern, was the crew
04:06	17 Q. And he didn't provide you with any input,	04:12	17 given any update as to the status of the investigation?
04:06	18 right?	04:12	18 A. Not that I recall.
04:06	19 A. No. He took it as a rhetorical question.	04:12	19 Q. How did the command staff respond to that
04:06	20 Q. Did you express any concerns with	04:13	20 concern?
04:06	21 Ms. Draycott returning to station 54 to chief Snell?	04:13	21 A. I believe -- I believe it's in here, that it
04:06	22 A. No.	04:13	22 said the law requires that she be placed back to her
04:07	23 (Exhibit 8 marked.)	04:13	23 last work assignment, something -- it may not be the
04:08	24 Q. Chief McAteer, I am showing you what's been	04:13	24 exact words.
04:08	25 marked as exhibit 8 to your deposition. For	04:13	25 Q. Okay.
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04:08	1 identification purposes it's HOU 5518 through 5527.	04:13	1 A. But I believe chief Boriskie said that the
04:08	2 A. All right.	04:13	2 law requires that she be placed back here.
04:08	3 Q. Do you recognize this document?	04:13	3 Q. Was there any specific response to the
04:08	4 A. Yeah, vaguely. I know that's my signature.	04:13	4 concern about the ongoing investigation that you
04:08	5 Q. Is this your affidavit regarding --	04:13	5 remember?
04:08	6 regarding Ms. Draycott's return to work on January 13th	04:13	6 A. No. I mean, I know the -- a concern was
04:08	7 of 2010?	04:14	7 voiced, but it was really kind of waved off.
04:08	8 A. Oh, I would have to read it and see.	04:14	8 Q. By the command staff?
04:08	9 Q. Okay. Well, why don't you take time to read	04:14	9 A. Yes.
04:08	10 through the first four pages.	04:14	10 Q. Okay. And were you willing to accept
04:11	11 A. Okay.	04:14	11 Ms. Draycott back notwithstanding the ongoing
04:11	12 Q. Have you had a chance to review exhibit 8?	04:14	12 investigation?
04:11	13 A. Yes.	04:14	13 A. Oh, yes. I follow orders.
04:11	14 Q. Does this appear to be a true and accurate	04:14	14 Q. And then the -- the next sentence says:
04:11	15 copy of your affidavit from March 26 of 2010?	04:14	15 Draycott had voiced that station 54 A was a hostile
04:11	16 A. May 26.	04:14	16 work environment, and they could not understand why she
04:11	17 Q. I am sorry. May 26 of 2010. Thank you.	04:14	17 would be placed back into the same environment that she
04:11	18 A. You are trying to trick me. I am kidding.	04:14	18 had criticized.
04:11	19 Q. And does reviewing the first four pages of	04:14	19 Do you see that?
04:11	20 exhibit 8 help refresh your memory --	04:14	20 A. Which paragraph?
04:11	21 A. Yes.	04:14	21 Q. I am sorry. That was the next sentence from
04:11	22 Q. -- in terms of the roll call that was --	04:14	22 where we read. It's the third full paragraph, about
04:11	23 that happened when Ms. Draycott sought to return to	04:14	23 halfway down.
04:12	24 work and some of the issues that came up during that?	04:14	24 A. Okay. So it's -- didn't understand why she
04:12	25 A. Right.	04:14	25 is not being shielded -- oh, okay. It's up here in the

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04:14	1 paragraph.	04:18	1 Q. Is that correct?
04:14	2 Q. Had voiced?	04:18	2 A. Right.
04:15	3 A. Oh, okay. Had voiced that 54 A was a	04:18	3 Q. And were you willing to accept her back
04:15	4 hostile work environment and they couldn't understand	04:18	4 notwithstanding those complaints?
04:15	5 why she would be placed back into the same environment	04:18	5 MS. COHEN: Objection; asked and
04:15	6 that she criticized.	04:18	6 answered.
04:15	7 That was my understanding of the crew's	04:18	7 A. Yes. If the fire chief says she is to be
04:15	8 concerns.	04:18	8 transferred back, then that's what we do.
04:15	9 Q. That was the crew's concerns, okay. And	04:18	9 BY MR. MONTEIRO:
04:15	10 when you say hostile work environment, is that a	04:18	10 Q. You go on to say in your statement that the
04:15	11 reference to her complaints about the misuse of the	04:18	11 crew did not seem satisfied with chief Boriskie's
04:15	12 dorm and the bathroom that we have been talking about	04:18	12 answer in response to their concerns?
04:15	13 today?	04:18	13 A. Right.
04:15	14 A. Well, and I think there had been some sort	04:18	14 Q. How was that -- how did the crew express
04:15	15 of complaint filed saying hostile work environment.	04:18	15 that they were unsatisfied?
04:15	16 And I don't remember what all was said on the media,	04:18	16 A. I think in general grumbling, oh, that's not
04:15	17 but it seemed like Draycott and Keyes and their lawyer,	04:18	17 right.
04:16	18 you know, made a lot of public allegations in the	04:18	18 Q. Was there anyone in particular that was
04:16	19 media.	04:19	19 expressing concern?
04:16	20 I think that's kind of what the crew	04:19	20 A. Not that I recall. I can't remember who
04:16	21 was -- you know, hey, you know, she said hostile work	04:19	21 exactly said what.
04:16	22 environment. Aren't there some laws that require some	04:19	22 Q. Okay. Were you -- in light of the fact that
04:16	23 sort of separation or you know, either -- either the	04:19	23 the crew did not seem satisfied, were you concerned
04:16	24 one bringing the complaint or the other members, you	04:19	24 that there could be a problem when Ms. Draycott
04:16	25 know, get separated, temporary work location change?	04:19	25 returned in a week?
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04:16	1 Q. Okay. So what was your understanding of	04:19	1 A. My concern was we haven't identified
04:16	2 what the hostile work environment was that Ms. Draycott	04:19	2 anybody. We are going to put her right back in the
04:16	3 had raised, that the crew was concerned about her	04:19	3 same environment, location, same crew. What's changed?
04:16	4 returning?	04:19	4 So what if this same thing happens again?
04:16	5 A. You know, bathroom, dorm, you know, the	04:19	5 Q. Well, you -- you told me a few minutes ago
04:17	6 speaker.	04:19	6 that you were ready to follow orders and accept her
04:17	7 At some point -- I don't remember	04:19	7 back, right?
04:17	8 exactly when -- there was a complaint that people don't	04:19	8 A. Well, right.
04:17	9 talk to me. They are avoiding me and saying that	04:20	9 Q. Okay. So even though you had some concerns,
04:17	10 contributed to the hostile work environment.	04:20	10 it sounds like, you were ready to bring her back and
04:17	11 Q. And did this have to do with Ms. Draycott's	04:20	11 accept her back, given the fire chief's orders?
04:17	12 internal and OIG complaints regarding the conditions of	04:20	12 A. Those were internal concerns.
04:17	13 the women's dorm and bathroom?	04:20	13 Q. Internal to yourself? Is that --
04:17	14 A. I am sorry? Did what have to do with her	04:20	14 A. Yeah. When you say did you have any
04:17	15 complaints?	04:20	15 concerns, yeah, in my mind and thinking through this.
04:17	16 Q. You just -- I asked you what your	04:20	16 Q. So the crew raises their concerns at this
04:17	17 understanding of the hostile work environment was that	04:20	17 meeting on January 7th, and you say in your affidavit
04:17	18 the crew was concerned about.	04:20	18 that they didn't seem satisfied with the fire chief's
04:17	19 A. My understanding of what her complaints	04:20	19 answer, that they should treat Ms. Draycott like any
04:17	20 that -- describing a hostile work environment, right,	04:20	20 other crew member?
04:17	21 so that's what I described, what I remember as being	04:20	21 A. Right.
04:18	22 her complaints.	04:20	22 Q. Were you concerned that there could be a
04:18	23 Q. Those were -- she made those complaints both	04:20	23 problem when she comes back in a week's time in light
04:18	24 internally and also to OIG?	04:20	24 of the crew's concerns?
04:18	25 A. Yes.	04:20	25 A. Okay. Again, if I am given a directive that

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04:21	1 she is going to be placed back at this fire station,	04:24	1 chief Snell's office one day. Boriskie said: Look,
04:21	2 that's what we are going to do. You know, they --	04:24	2 this is what I am thinking, okay? We -- we go out and
04:21	3 that's an order. There is no decision to be made, you	04:24	3 talk to just the shift, give them an opportunity to
04:21	4 know. That is the decision.	04:24	4 voice their concerns, you know. Sometimes maybe if
04:21	5 Q. And you expected the crew to follow that?	04:24	5 they -- they never had a chance to get anything off
04:21	6 A. Yes, yeah. We can have, you know, concerns	04:24	6 their chest. And then secondly, when -- when Jane
04:21	7 in our minds, but that doesn't -- that does not affect	04:24	7 comes back, we have another meeting, give both Jane and
04:21	8 are we going to carry out this order.	04:24	8 the crew an opportunity to voice their concerns,
04:21	9 Absolutely we are.	04:24	9 because they have never really, you know, been given
04:21	10 Q. And did you speak with your captains -- I	04:24	10 that opportunity, you know, hey, this is what's really
04:21	11 guess it was captain Williamson and senior captain	04:25	11 bugging me that you guys do, okay? Well, gee, this is
04:21	12 Tamez -- separately prior to Ms. Draycott's return?	04:25	12 what's really bugging us about what you have been
04:21	13 A. No, because I thought the fire chief and the	04:25	13 doing, okay?
04:22	14 command staff had already given the order. This is the	04:25	14 So that was -- that's what his -- what
04:22	15 way it's going to be.	04:25	15 chief Boriskie stated was his intent, was just try
04:22	16 Q. Did you have any concerns that the crew	04:25	16 to -- let's see if when people get things off their
04:22	17 might treat Ms. Draycott poorly because of her --	04:25	17 chest, maybe now we can get along.
04:22	18 because of her OIG complaints?	04:25	18 Q. What was your reaction to the chief's plan?
04:22	19 A. No.	04:25	19 A. I don't remember specifically, but you know,
04:22	20 Q. Well, did you -- so there was the	04:25	20 when the fire chief says this is what we are going to
04:22	21 January 7th meeting, right, prior to the roll call, and	04:25	21 do, well, that's what we are going to do.
04:22	22 then there was a roll call on January 13th?	04:25	22 Q. But did he ask you for input?
04:22	23 A. Yes.	04:25	23 A. No.
04:22	24 Q. Do you know if there were any meetings in	04:25	24 Q. Did you have concerns about his plan,
04:22	25 between that time?	04:25	25 whether or not you expressed them?
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04:22	1 A. Not that I was aware of.	04:25	1 A. I don't remember exactly. I remember just
04:22	2 Q. You didn't attend any meetings?	04:26	2 kind of thinking, well, I don't know. It could work.
04:23	3 A. No.	04:26	3 It could go horribly wrong.
04:23	4 Q. Was there any conversations with -- between	04:26	4 Q. That was a -- that was a possible outcome in
04:23	5 you and command staff in terms of how the January 13th	04:26	5 your mind?
04:23	6 return to work would play out -- Ms. Draycott's return	04:26	6 A. Yes.
04:23	7 to work would play out?	04:26	7 Q. Why did you think that was a potential
04:23	8 A. No. I was just told to be there as an	04:26	8 outcome?
04:23	9 attendee.	04:26	9 A. Which? What? It could work --
04:23	10 Q. Did you know what the -- and you knew that	04:26	10 Q. That it could go horribly wrong.
04:23	11 the fire chief was going to be there, right?	04:26	11 A. Well, you know, you have a number of crew
04:23	12 A. Yes.	04:26	12 saying what could be construed as mean things when they
04:23	13 Q. And you knew that Dr. Finney was going to be	04:26	13 were told to speak their concerns. If it's interpreted
04:23	14 there?	04:26	14 as they are mean, they are ganging up on me, then
04:23	15 A. I didn't know who all from the command	04:27	15 that's how it could go wrong.
04:23	16 staff.	04:27	16 Q. And did you -- I forget. You did not
04:23	17 Q. You knew some command staff was going to be	04:27	17 express that to chief Boriskie. Is that correct?
04:23	18 there?	04:27	18 A. Correct.
04:23	19 A. Yes.	04:27	19 Q. And is that essentially what happened, that
04:23	20 Q. Including the fire chief?	04:27	20 it went horribly wrong and --
04:23	21 A. Right, because....	04:27	21 A. Yeah, I think the outcome was probably not
04:23	22 Q. Had anyone -- had anyone communicated to you	04:27	22 what chief Boriskie was hoping for.
04:23	23 what the -- what the plan was for the 13th prior to you	04:27	23 Q. Ms. Draycott felt like she had been ganged
04:23	24 coming in station 54?	04:27	24 up on. Is that right?
04:24	25 A. Chief Boriskie told -- I must have been in	04:27	25 MS. COHEN: Objection; calls for

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04:27	1 speculation.	04:31	1 Is that correct?
04:27	2 BY MR. MONTEIRO:	04:31	2 A. I would say yes.
04:27	3 Q. Do you know if Ms. Draycott felt like she	04:31	3 Q. Now, you say he made an argument -- or he
04:27	4 had been ganged up on?	04:31	4 presented -- he thought by presenting an organized
04:27	5 A. She never spoke to me, so I don't know what	04:31	5 argument -- was it your sense that he was trying to
04:28	6 she was thinking. I think that's what I have read	04:31	6 persuade command staff that Ms. Draycott should not be
04:28	7 somewhere, maybe one of complaints, maybe a lawsuit. I	04:31	7 brought back until the investigation into her
04:28	8 don't remember.	04:31	8 complaints were resolved?
04:28	9 Q. Let's go back to exhibit 8, and if we can	04:31	9 A. That was my impression, yes.
04:28	10 look at the page marked 5519 --	04:31	10 Q. Was he also trying to persuade -- was it
04:28	11 A. Okay.	04:31	11 your impression he was also trying to persuade
04:28	12 Q. -- and the bottom paragraph.	04:31	12 Ms. Draycott that she should not come back to work
04:28	13 A. Okay.	04:32	13 while her complaints were pending?
04:28	14 Q. The last sentence which continues onto the	04:32	14 A. I don't know that -- I don't know that it
04:28	15 next page, it says: Quote, I believe that captain	04:32	15 was directed at Draycott as much as it was trying to
04:28	16 Williamson thought that by presenting an organized	04:32	16 restate and summarize the situation: You know, here we
04:28	17 argument, then the case for not bringing Draycott back	04:32	17 are. Does this make any sense to anybody? That's --
04:28	18 to station 54 until the investigation was complete	04:32	18 Q. He had raised the concerns -- he had raised
04:28	19 would be more compelling, period, quote?	04:32	19 the concerns the week before, right, outside the
04:28	20 A. Okay.	04:32	20 presence of Ms. Draycott?
04:28	21 Q. Did I read that right?	04:32	21 A. Yes.
04:28	22 A. Yes.	04:32	22 Q. Okay.
04:28	23 Q. So was -- did captain Williamson verbally	04:32	23 A. But I don't think he felt like he was
04:29	24 oppose Ms. Draycott's return to station 54 that	04:32	24 allowed time or opportunity, so at any rate, I guess he
04:29	25 morning?	04:32	25 organized his thoughts and -- and they were -- the crew
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04:29	1 A. I think that was probably the gist of it. I	04:33	1 was -- oh, this is an opportunity to voice your
04:29	2 don't -- a lot of time has gone by. I don't remember	04:33	2 concerns.
04:29	3 exactly what -- what he said, but -- but he said he had	04:33	3 Q. Who told him that?
04:29	4 written some notes down in what came to be described as	04:33	4 A. Chief Boriskie.
04:29	5 a letter so he would stay on topic.	04:33	5 Q. During the -- during the roll call on
04:29	6 And so that last sentence is kind of my	04:33	6 January 13th or after the roll call?
04:29	7 recollection of, you know -- talking to Williamson	04:33	7 A. I don't remember exactly what he said on
04:29	8 afterward, you know, that was -- that's what he told me	04:33	8 the 13th, but the earlier, the 7th or the first meeting
04:30	9 his intent: You know -- you know, my job is to	04:33	9 just with command staff and the crew.
04:30	10 represent the whole crew, and my crew has concerns	04:33	10 Q. Okay.
04:30	11 that --	04:33	11 A. Before that, he told me and Snell, maybe
04:30	12 Q. I am sorry. Are you explaining -- are you	04:33	12 Longoria: This is what I am thinking the intent for
04:30	13 talking about what Williamson told you?	04:33	13 this is.
04:30	14 A. Yes, yes.	04:33	14 I believe on that meeting with the
04:30	15 Q. Okay, go ahead. I wanted to make sure I	04:33	15 shift, you know: Hey, guys, I know you-all really
04:30	16 understand.	04:33	16 haven't had an opportunity to voice your concerns. You
04:30	17 A. Yeah, sorry. I was trying to paraphrase	04:33	17 know, everybody else gets to talk, but you-all can't.
04:30	18 Williamson, saying my job is to represent my crew here	04:33	18 So -- so you know, there we are.
04:30	19 at station 54. And I don't know if maybe some of the	04:34	19 Q. If not for Ms. Draycott's complaints which
04:30	20 things I say might be persuasive or convincing that,	04:34	20 resulted in these investigations, do you think
04:30	21 oh, hey, I guess we hadn't thought about that or -- but	04:34	21 Williamson would have welcomed Ms. Draycott back?
04:30	22 his -- his crew had concerns.	04:34	22 MS. COHEN: Objection; calls for
04:30	23 Q. And essentially he didn't feel like	04:34	23 speculation.
04:31	24 Ms. Draycott could come back -- should come back while	04:34	24 BY MR. MONTEIRO:
04:31	25 the investigations into her OIG complaints were open.	04:34	25 Q. Based on what he said -- based on what he

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04 : 34	1 said at the roll call?	04 : 47	1 funded.
04 : 34	2 A. Well, that's taking away a lot of -- if you	04 : 47	2 Q. Does it have a board?
04 : 34	3 wave the wand and say if there had never been any	04 : 47	3 A. Yeah. There are officers that -- I think I
04 : 34	4 complaints, then, no, he would not have objected. When	04 : 47	4 am the treasurer.
04 : 34	5 I say complaints, I mean, okay -- sorry. I am talking	04 : 47	5 Q. Are you the -- are you the highest ranking
04 : 34	6 in a circle.	04 : 47	6 HFD official involved with the pipes and drums
04 : 34	7 If there were no history of the	04 : 47	7 organization?
04 : 35	8 bathrooms, the dorm, the speaker, if none of that had	04 : 47	8 A. Right now I am -- well, no, sorry, I am not.
04 : 35	9 happened, then no, Williamson would have no reason to	04 : 48	9 There is an executive assistant chief bass drummer.
04 : 35	10 object, you know, to Draycott being there or coming	04 : 48	10 Q. How about in 2010?
04 : 35	11 back.	04 : 48	11 A. 2010, let's see. We were two or three -- at
04 : 35	12 MS. COHEN: Can we take a short break?	04 : 48	12 least two chiefs, district chiefs. I was one of the
04 : 35	13 MR. MONTEIRO: Sure.	04 : 48	13 them.
04 : 35	14 THE VIDEOGRAPHER: 4:34, off record.	04 : 48	14 Q. Who was the other?
04 : 35	15 (Recess from 4:35 to 4:45 p.m.)	04 : 48	15 A. Richard Cole and -- you know, I don't
04 : 45	16 THE VIDEOGRAPHER: 4:44, back on	04 : 48	16 remember when Hunter got promoted.
04 : 45	17 record, disk 6.	04 : 48	17 Q. And what was your role in the organization
04 : 45	18 BY MR. MONTEIRO:	04 : 48	18 in 2010?
04 : 45	19 Q. Chief, were you aware of the City hiring two	04 : 48	19 A. Bagpiper.
04 : 45	20 law firms to conduct an assessment of the fire	04 : 48	20 Q. You are a bagpiper?
04 : 45	21 department in 2009?	04 : 48	21 A. Yes.
04 : 45	22 A. I don't remember anything about that.	04 : 48	22 Q. Did you have any sort of role on the board,
04 : 45	23 Q. You didn't have any involvement with that?	04 : 49	23 as well, in 2010?
04 : 45	24 A. No.	04 : 49	24 A. Well, that's what I am saying. I may be the
04 : 45	25 Q. Okay. Do you remember receiving the	04 : 49	25 treasurer, but Hunter really kind of does all that.
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04 : 45	1 assessment from the law firms?	04 : 49	1 Q. And did the pipes and -- pipes and drums
04 : 45	2 A. Not that I recall.	04 : 49	2 organization sell a calendar to raise funds in 2010?
04 : 45	3 Q. Were you made aware of any of the	04 : 49	3 A. There was a calendar project. I don't
04 : 45	4 recommendations that the law firm has made as part of	04 : 49	4 remember when it was.
04 : 45	5 their assessment?	04 : 49	5 That's already -- already been
04 : 45	6 A. Now, that -- no, I don't remember. Now,	04 : 49	6 investigated.
04 : 46	7 that would be logical if that -- if that were	04 : 49	7 Q. What was your role with respect to the --
04 : 46	8 communicated to the fire chief and he would communicate	04 : 49	8 well, was this the only time that a calendar was sold
04 : 46	9 that down, but I don't recall anything like that.	04 : 49	9 by the pipes and drums organization?
04 : 46	10 Q. I am sorry. Remind me, when did you leave	04 : 49	10 A. Yes.
04 : 46	11 ARFF, in 2010, November?	04 : 49	11 Q. What was your role with respect to the
04 : 46	12 A. September or October 2010.	04 : 49	12 selling of the calendar, if any?
04 : 46	13 Q. And then you returned in?	04 : 49	13 A. Really none. I got a call from Hunter:
04 : 46	14 A. July 2015.	04 : 49	14 Hey, Manny wants to do a calendar, and you know, it
04 : 46	15 Q. 2015. And if I tell you that the assessment	04 : 50	15 would be similar to the firefighter calendar.
04 : 46	16 was involving the fire department's EEO practices, does	04 : 50	16 Okay.
04 : 46	17 that help you refresh your memory in terms of whether	04 : 50	17 Q. What was your understanding of the
04 : 46	18 you had any involvement in that or learned of those	04 : 50	18 firefighter calendar?
04 : 46	19 results?	04 : 50	19 A. Well, you know, the firefighter calendar --
04 : 46	20 A. No. That's not ringing a bell.	04 : 50	20 I don't know. It's got guys, you know, muscular,
04 : 47	21 Q. And what is the HFD pipes and drums	04 : 50	21 and -- that's what I was telling him: Well, who is --
04 : 47	22 organization?	04 : 50	22 who do they think they are going to take pictures of,
04 : 47	23 A. It's a bagpipe band.	04 : 50	23 because we are not -- we are not calendar boys.
04 : 47	24 Q. How is it -- how is the organization run?	04 : 50	24 Q. You didn't volunteer?
04 : 47	25 A. It's a 501(c)3. It's not a City sponsored,	04 : 50	25 A. No.

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04:50	1	Q. So who ultimately -- what were the images	04:53	1	investigations.
04:50	2	that ended up on the calendar?	04:53	2	Q. Were you interviewed?
04:50	3	A. Oh, Manny took pictures of Heather	04:53	3	A. Yes.
04:50	4	what's-her-name, you know, wearing a short kilt and	04:53	4	Q. Did you provide a statement?
04:50	5	so....	04:53	5	A. Yes.
04:50	6	Q. Who is Manny, by the way?	04:53	6	Q. Do you know who else -- are you aware of
04:50	7	A. Manny Chavez. He was active in the union.	04:53	7	anyone else who was disciplined?
04:51	8	At the time he was probably a captain, yeah, probably a	04:53	8	MS. COHEN: Objection; mischaracterizes
04:51	9	captain.	04:53	9	prior testimony.
04:51	10	Q. Who is Heather?	04:54	10	BY MR. MONTEIRO:
04:51	11	A. Firefighter. She is a dispatcher now.	04:54	11	Q. You can answer.
04:51	12	Q. Was she the only person who was depicted in	04:54	12	A. Well, like I said, I am not notified of
04:51	13	the calendar?	04:54	13	outcomes of investigations.
04:51	14	A. Yes.	04:54	14	Q. Now, this came out right around the time --
04:51	15	(Exhibit 9 marked.)	04:54	15	the calendar came out right around the time that
04:51	16	Q. Chief, I am showing you what's been marked	04:54	16	Ms. Draycott came back to work; is that right, at
04:51	17	as deposition exhibit 9.	04:54	17	station 54? Is that correct?
04:51	18	The images on exhibit 9, are those	04:54	18	A. I really don't remember.
04:52	19	the images -- are those two of the images from the	04:54	19	Do you know when the complaint -- when
04:52	20	calendar that we have been discussing?	04:54	20	I gave a statement? I don't remember.
04:52	21	A. Yes.	04:54	21	Q. Well, the article, at least, says
04:52	22	Q. Okay. And were you -- when did you become	04:54	22	January 20th of 2010?
04:52	23	aware of the content of the calendar prior to it being	04:54	23	A. Okay.
04:52	24	sold?	04:54	24	Q. So that would have been -- at least the
04:52	25	A. When it was being sold. You know, I	04:54	25	article would have been about a week after Ms. Draycott
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04:52	1	didn't -- I didn't see it before they had been ordered	04:54	1	came back to station 54. Is that fair?
04:52	2	and being sold.	04:54	2	A. Okay. So it was -- it was between -- they
04:52	3	Q. Were you aware that -- were you aware of the	04:55	3	have a -- they have a month to serve a formal
04:52	4	general nature of the photographs on the calendar prior	04:55	4	complaint. They have six months to investigate it. So
04:52	5	to --	04:55	5	it seemed like I remember they got on it fairly quick,
04:52	6	A. No.	04:55	6	so I probably gave a statement -- let's see.
04:52	7	Q. -- being sold?	04:55	7	You are saying this was -- this article
04:52	8	A. Nope. Hunter just said: You know, Manny	04:55	8	was January?
04:52	9	wants to do a calendar, and you know, it could be a	04:55	9	Q. That article was January 20th, and it's --
04:52	10	fundraiser for us.	04:55	10	A. There you go, okay.
04:52	11	Q. Did you understand, though, that it would be	04:55	11	So give it a couple weeks for the
04:53	12	pictures of women similar to what's reflected in	04:55	12	complaint to be filed and assigned. It was probably a
04:53	13	exhibit 9?	04:55	13	month, month to six weeks after January 20 when I
04:53	14	A. No.	04:55	14	probably gave a statement.
04:53	15	Q. You never knew that?	04:55	15	Q. Do you know why the complaint was not
04:53	16	A. Correct.	04:55	16	sustained against you? Were you notified?
04:53	17	Q. Okay. You said there was an investigation,	04:56	17	A. No, they don't really say. They just give
04:53	18	right?	04:56	18	me a -- send me a letter saying complaint
04:53	19	A. Yes.	04:56	19	such-and-such, you know, has been investigated. The
04:53	20	Q. Into the calendar?	04:56	20	ruling, the outcome, whatever they call it, is not
04:53	21	A. Yes.	04:56	21	sustained.
04:53	22	Q. What was the outcome of the investigation?	04:56	22	Q. And this article, at least, is reporting
04:53	23	A. Well, it was not sustained against me.	04:56	23	that this calendar has sold out as of January 20th,
04:53	24	Q. So --	04:56	24	2010. Is that consistent with your memory? Did you
04:53	25	A. And I am not notified of outcomes of other	04:56	25	sell out the calendar?

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04:56	1	A. I don't recall if there were any left, but	04:59	1	Q. You -- at some point captain Henschel left
04:56	2	it probably did sell out.	05:00	2	station 54, and captain Williamson replaced him,
04:56	3	Q. And Ms. Draycott also was returning to	05:00	3	correct?
04:56	4	station 54 in January 2010 after about six months of	05:00	4	A. Yes.
04:56	5	leave. Is that right?	05:00	5	Q. Do you know why captain Henschel left
04:57	6	A. That's about right.	05:00	6	station 54?
04:57	7	Q. We talked about the roll call that happened	05:00	7	A. No. He didn't tell me, and I didn't really
04:57	8	in January 2010?	05:00	8	ask. I think there was a vacancy posting, and he
04:57	9	A. Right, right.	05:00	9	transferred over to station 99. I just have to assume
04:57	10	Q. Now, did you -- at some point did you become	05:00	10	he wanted to get away from, you know, the
04:57	11	aware of Ms. Draycott's arrest for shoplifting in 2010?	05:00	11	controversies.
04:57	12	A. Yes.	05:00	12	Q. Was it a voluntary transfer?
04:57	13	Q. Did you -- how did you become aware?	05:00	13	A. Yes.
04:57	14	A. I know it was on the evening news.	05:00	14	Q. Were you -- and then after the roll call,
04:57	15	Q. How about in your official capacity? Did	05:00	15	captain Williamson was also transferred from
04:57	16	you have any involvement in -- in the investigation	05:00	16	station 54. Is that correct?
04:57	17	into her arrest?	05:00	17	A. Sometime after that he and captain Tamez
04:57	18	A. Oh, no, no, no.	05:00	18	both.
04:57	19	Q. Were you involved in any conversations about	05:00	19	Q. Were you involved in those decisions?
04:58	20	any action that the fire department would take against	05:00	20	A. No, I was not.
04:58	21	Ms. Draycott because of her arrest?	05:00	21	Q. Do you know who was?
04:58	22	A. No.	05:00	22	A. I was informed about it.
04:58	23	Q. Do you know what the -- what the outcome --	05:01	23	Q. You were informed, okay.
04:58	24	do you know of any action that the fire department took	05:01	24	A. So no.
04:58	25	against Ms. Draycott because of her arrest?	05:01	25	Chief Snell, I don't know who else. I
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04:58	1	A. No, I'm not aware.	05:01	1	assume -- I don't remember exactly when Boriskie left.
04:58	2	Q. You are weren't made aware?	05:01	2	Then acting fire chief Flanagan came
04:58	3	A. No.	05:01	3	in.
04:58	4	Q. What is the phase down requirement, if you	05:01	4	But somewhere in there I was informed
04:58	5	know?	05:01	5	by chief Snell the decision has been made. We are
04:58	6	A. Okay. So if you are eligible for a service	05:01	6	going to transfer captain Tamez, captain Williamson
04:58	7	retirement and you have accumulated benefit time on the	05:01	7	out. Do you have any way of filling those vacancies?
04:58	8	books, then you could sign up with the HR and the	05:01	8	That was my degree of involvement, was,
04:58	9	pension office to -- to phase down.	05:01	9	you know, how can you make this the station keep
04:58	10	So basically, you know, you are making	05:01	10	operating?
04:59	11	a decision to retire, and they use your accumulated	05:01	11	So, well, we happen to have a captain
04:59	12	benefit time, each of your assigned workdays, until	05:01	12	being promoted to senior captain and an EO being
04:59	13	they use it down to zero. So you keep getting a	05:02	13	promoted to captain today. So I can fill those spots.
04:59	14	regular City paycheck.	05:02	14	Q. Do you know -- did chief Snell tell you why
04:59	15	Q. And then a fire deferred termination, do you	05:02	15	Williamson and Tamez were being transferred?
04:59	16	know what that is?	05:02	16	A. Told me the same thing that's printed on
04:59	17	A. I am sorry?	05:02	17	their transfers, to provide fresh leadership.
04:59	18	Q. Firefighter deferred termination?	05:02	18	Q. And that was -- this was at the direction of
04:59	19	A. No, I never heard that term.	05:02	19	whoever the fire chief was at the time?
04:59	20	Q. Were you made aware that Ms. Draycott was	05:02	20	A. Yes.
04:59	21	sent to a Dr. Nemias for a fitness for duty in 2010?	05:02	21	Q. And captain Williamson then tried to return
04:59	22	A. No.	05:02	22	to ARFF a couple months later. Is that correct?
04:59	23	Q. Did you have any involvement in that	05:02	23	A. Not that I recall.
04:59	24	decision to send her for a fitness for duty?	05:02	24	Q. You don't remember that?
04:59	25	A. None, no.	05:02	25	A. No.

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05:02	1	Q. Do you remember communicating with him by	05:07	1	Williamson had said or done at that roll call meeting
05:02	2	e-mail about him returning to ARFF in March of 2010?	05:07	2	that morning? That is an example of a good leader for
05:02	3	A. No, because he went to fours. He liked it	05:07	3	you for the fire department?
05:03	4	there. I would bump into him occasionally.	05:07	4	A. Does that permanently disqualify him for --
05:03	5	Is it possible he sent me an e-mail,	05:07	5	you know, for a captain position? I don't think so.
05:03	6	hey, someday I would like to -- he may have, but -- but	05:07	6	Q. Right. He transferred and was a captain
05:03	7	I am not aware that he tried to return to ARFF.	05:07	7	somewhere else, correct?
05:04	8	(Exhibit 10 marked.)	05:07	8	A. Yes.
05:04	9	Q. Chief, I am showing you what's been marked	05:07	9	Q. But I am talking about ARFF, which is your
05:04	10	deposition exhibit 10. For identification purposes, it	05:07	10	division, correct?
05:04	11	is HOU 81402.	05:07	11	A. Yes.
05:04	12	Can you take a look at that and let me	05:07	12	Q. And you are responsible for the conduct of
05:04	13	know when you have had a chance to read it?	05:07	13	its leaders and its officers?
05:04	14	A. Oh, okay.	05:07	14	A. Responsible, okay. They report to me.
05:04	15	Q. Does reviewing exhibit 10 help refresh your	05:07	15	Q. I get that. Obviously chief Boriskie can
05:05	16	recollection with regards to captain Williamson	05:07	16	overrule you or chief Snell, I mean, but ARFF is your
05:05	17	attempting to return to ARFF in March of 2010?	05:07	17	rodeo, more or less, as district chief, correct?
05:05	18	A. I did not remember this, but -- but okay. I	05:07	18	A. Yes.
05:05	19	don't dispute. It might have come from me. I don't	05:07	19	Q. So Williamson is an example of a leader that
05:05	20	know what -- I don't know what's further down in the	05:07	20	you would want in ARFF after that roll call meeting.
05:05	21	e-mail.	05:07	21	There is nothing that he did in that meeting that you
05:05	22	Q. Okay. Well, in the e-mail you were saying	05:07	22	think should disqualify him permanently from being a
05:05	23	that you wanted him to come back to ARFF. Is that	05:07	23	member as a leader of ARFF for you, for your division?
05:05	24	correct?	05:07	24	A. He is a good, knowledgeable ARFF technician.
05:05	25	A. Yes.	05:07	25	Q. I understand that, but he has also got to
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05:05	1	Q. Okay.	05:07	1	lead people, correct?
05:05	2	A. Someday. You know, I remember telling him	05:08	2	A. Yes.
05:06	3	that now is not a good time.	05:08	3	Q. He has also got to get the trust of his
05:06	4	MR. MONTEIRO: Chief, those are all the	05:08	4	female employees?
05:06	5	questions I have for you. Thank you very much. I turn	05:08	5	A. Yes.
05:06	6	it over to Mr. Capodice.	05:08	6	Q. He has also got to deal with complaints of
05:06	7	MR. CAPODICE: My turn.	05:08	7	discrimination and retaliation?
05:06	8	EXAMINATION	05:08	8	A. Right. And at that roll call he was
05:06	9	BY MR. CAPODICE:	05:08	9	following the fire chief's order to voice your
05:06	10	Q. Good afternoon, chief. My name is Dwain	05:08	10	concerns.
05:06	11	Capodice. I am an attorney representing Ms. Draycott	05:08	11	Q. Was he following the fire chief's orders to
05:06	12	and Ms. Keyes today. I have a couple questions that I	05:08	12	allow Draycott to return to 54?
05:06	13	want to follow up with you.	05:08	13	A. He was told to voice his concerns. I think
05:06	14	On exhibit 10 it says that you wanted	05:08	14	that's what he did.
05:06	15	Williamson to come back to ARFF someday. Is that	05:08	15	Q. And you don't think he did anything
05:06	16	correct?	05:08	16	inappropriate at that meeting that you wouldn't do
05:06	17	A. Yes.	05:08	17	yourself?
05:06	18	Q. Was there nothing that you have seen in	05:08	18	MS. COHEN: Objection; mischaracterizes
05:06	19	Williamson's conduct to be someone that you wouldn't	05:08	19	witness' testimony and is harassing.
05:06	20	want in a leadership position at ARFF?	05:08	20	BY MR. CAPODICE:
05:06	21	A. He was a good captain, tactician. He	05:08	21	Q. Go ahead, and answer.
05:06	22	motivated his crews.	05:08	22	A. Okay. I would have probably approached it
05:06	23	Q. Let me ask you more specifically.	05:08	23	differently.
05:06	24	Nothing that happened at that roll call	05:08	24	Q. Why?
05:06	25	meeting with that morning you had a problem with, what	05:08	25	A. And it is in that -- in that setting,

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05:08	1	visually, there are a lot more of you than there is of	05:12	1	Well, I had had a report that captain
05:09	2	one firefighter. I would not have handled that whole	05:12	2	Tamez refused to take the assessment and walked off.
05:09	3	thing in a mass big group setting like that, but -- but	05:12	3	So I called him over to ask him about
05:09	4	that's --	05:12	4	that.
05:09	5	Q. He attempted obviously to air his grievances	05:12	5	And he just blew up and said: You
05:09	6	on January 7th, correct?	05:12	6	know, I am not taking that bullshit exam. It's
05:09	7	MS. COHEN: Were you done with your	05:12	7	humiliating, degrading. I am not taking it.
05:09	8	response?	05:12	8	And you know, and then went off into:
05:09	9	THE WITNESS: Yeah, pretty much.	05:13	9	You know, you have been undermining my authority for
05:09	10	BY MR. CAPODICE:	05:13	10	years and --
05:09	11	Q. He had an opportunity to air his grievances	05:13	11	Whoa, whoa, whoa, hey, captain, time
05:09	12	on the 7th, correct?	05:13	12	out. Clearly this is going to be a conversation for
05:09	13	A. Yes. But the -- per chief Boriskie, the --	05:13	13	another day with a witness in the room. So why don't
05:09	14	the second, 12th, 13th, was the opportunity for both	05:13	14	you gather your things, go back to your fire station?
05:09	15	Draycott and crew members to maybe -- maybe address to	05:13	15	So you can -- can you respond appropriately for the
05:09	16	each other directly what their concerns were.	05:13	16	rest of this shift, or do I need to call somebody in?
05:09	17	Q. And --	05:13	17	No, no. I got it.
05:09	18	A. To see if there was some -- some common	05:13	18	So it was sometime a week or two later
05:10	19	ground, you know, gee, I hadn't thought about that.	05:13	19	I had a witness in the room, and you know, Tamez denied
05:10	20	Q. And did you think that Williamson did that	05:13	20	ever saying any of those things that he said.
05:10	21	in a productive manner that morning?	05:13	21	So I have a problem with that.
05:10	22	A. I think he did it the way it made sense to	05:14	22	Q. Other than the incident with regards to him
05:10	23	him.	05:14	23	taking this test and -- was there any other issues that
05:10	24	Q. Did he do it in a way that you would want a	05:14	24	you had with his truthfulness?
05:10	25	leader of the ARFF organization to be?	05:14	25	A. No. But the day of the graffiti incident --
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05:10	1	A. Well, that was kind of a unique situation.	05:14	1	you know, you are asking about examples of poor
05:10	2	When the fire chief and command staff come out and say,	05:14	2	leadership -- he stayed in -- he stayed in his office.
05:10	3	okay, this is your opportunity to get a -- get it off	05:14	3	Captain Henschel and I were securing
05:10	4	your chest, that's what you do.	05:14	4	the room, you know, greeting investigators, kind of
05:10	5	Q. So is that a yes?	05:14	5	showing them what's what. You know, somebody needs to
05:10	6	A. Yeah. I would say I know captain Williamson	05:14	6	keep the rest of the crew on task in case we get called
05:10	7	well enough to know that he would respond appropriately	05:14	7	out to an aircraft emergency.
05:11	8	on a crash truck to an aircraft emergency and	05:14	8	And several times I had to go to
05:11	9	competently lead his crew.	05:14	9	Tamez's room: Hey, what are you doing? You know, we
05:11	10	Q. What about captain Tamez? Would you want	05:15	10	have kind of a crisis out here. Henschel is out here
05:11	11	him back at ARFF?	05:15	11	by himself. I am on the phone.
05:11	12	A. Tamez?	05:15	12	He goes: People know where to find me.
05:11	13	Q. Yes.	05:15	13	So you know, yeah, when I have to keep
05:11	14	A. Well, he is a different case. He has	05:15	14	trying to engage a senior captain, I have a problem
05:11	15	demonstrated several times a lack of leadership,	05:15	15	with that.
05:11	16	untruthfulness.	05:15	16	Q. I guess when you talk about undermining your
05:11	17	Q. With what?	05:15	17	authority for years earlier, he accused you of that,
05:11	18	A. All right. He had -- I had called him over	05:15	18	did he give you any examples?
05:11	19	to my office one time to ask him why -- why did you	05:15	19	A. No.
05:11	20	not -- or refuse to take the job knowledge assessment	05:15	20	Q. None?
05:11	21	with the rest of your crew, because when the FAA	05:15	21	A. So --
05:12	22	inspectors come around in the annual 139 inspection,	05:15	22	Q. Are you aware today, as you sit here today,
05:12	23	they question the entire crew, including officers. The	05:15	23	of any examples of where he accused you of undermining
05:12	24	intent here is to -- prior to the inspection, gauge the	05:15	24	your authority -- undermining his authority? Sorry.
05:12	25	level of knowledge, are there any weak areas.	05:15	25	A. One, it's a little comical. How can a

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05:15	1	superior officer undermine his authority?	05:18	1	MR. CAPODICE: Okay.
05:15	2	Q. I get that it's comical, but are you aware	05:18	2	MS. SULLIVAN: Off the record, please.
05:15	3	today, as you sit here today, of any incidents where	05:18	3	THE VIDEOGRAPHER: 5:17, off record.
05:15	4	Tamez has accused you of undermining his authority?	05:18	4	(Recess from 5:18 to 5:28 p.m.)
05:15	5	A. I don't recall specifics.	05:27	5	THE VIDEOGRAPHER: 5:27, back on the
05:16	6	Q. Okay. Have you had any complaints of gender	05:28	6	record, disk 7.
05:16	7	discrimination or racial discrimination made against	05:28	7	BY MR. CAPODICE:
05:16	8	you or retaliation? Sorry.	05:28	8	Q. Before Draycott came to station 54, were you
05:16	9	A. Yes, yeah.	05:28	9	aware of any issues with regards to her employment at
05:16	10	Q. By who?	05:28	10	other stations?
05:16	11	A. I am probably going to forget some. I have	05:28	11	A. No. She went to station 92 first. So
05:16	12	had several.	05:28	12	that's -- that's when I became aware of her employment,
05:16	13	Q. Okay. Give me the list.	05:28	13	is when she came to us.
05:16	14	A. Jane Draycott.	05:28	14	Q. Were you aware of any complaints she had
05:16	15	Q. Okay.	05:28	15	made at station 92 or about her time at station 92?
05:16	16	A. Elmer Williams.	05:28	16	A. Yes.
05:16	17	Q. Okay.	05:28	17	Q. What complaints were you aware of?
05:16	18	A. Huh. Johnny McGarrett.	05:28	18	A. Let's see. Taking a picture down -- formal
05:16	19	Q. Okay.	05:28	19	complaints or just complaints in general?
05:16	20	A. Let's see. I don't remember if Sharon	05:28	20	Q. Either.
05:16	21	Branch is -- Sharon Branch was complaining about Bobby.	05:29	21	A. Let's see, let's see. She didn't like
05:17	22	It was sort of me, too, but I don't think I was	05:29	22	people blowing their nose at the dinner table, started
05:17	23	respondent.	05:29	23	not getting along with Julie Childers, wanted a captain
05:17	24	There may be something I am forgetting.	05:29	24	or somebody to order Julie to not talk to her.
05:17	25	Q. What about Tamez?	05:29	25	And then, okay, Jane, don't talk to
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05:17	1	A. He probably did.	05:29	1	Julie.
05:17	2	Q. You don't know?	05:29	2	And then Reggie got involved.
05:17	3	A. I don't remember. I have responded to quite	05:29	3	Okay, Jane, don't talk to Reggie.
05:17	4	a few complaints over the years.	05:29	4	So....
05:17	5	Q. How many have come from your captain?	05:29	5	Q. And which one of those -- which one of the
05:17	6	MS. SULLIVAN: Objection; vague.	05:29	6	complaints you mentioned above were formal, if any?
05:17	7	A. How many come from captains in general?	05:30	7	A. The taking her picture down and Julie is
05:17	8	BY MR. CAPODICE:	05:30	8	being mean to me.
05:17	9	Q. No. From your own captains accusing you	05:30	9	Q. I guess were you involved in the decision to
05:17	10	gender/race discrimination, or retaliation?	05:30	10	transfer Draycott to 54?
05:17	11	MS. SULLIVAN: Objection; vague as to	05:30	11	A. That was a fill-in assignment to complete
05:17	12	time.	05:30	12	training, so I did not transfer her to 54.
05:17	13	BY MR. CAPODICE:	05:30	13	Q. So upon her completion of her training
05:17	14	Q. While at ARFF. Let's just talk about ARFF.	05:30	14	at 92, she transferred to 54 and I guess filled the
05:17	15	A. Right.	05:30	15	position there?
05:17	16	Q. How many times has a captain accused you of	05:30	16	A. No. She did not complete her training
05:17	17	gender/race discrimination or retaliation?	05:30	17	at 92. When she left and came back, she was still
05:18	18	A. Probably just Tamez, but I have had -- I	05:30	18	assigned to station 92, had not completed her training,
05:18	19	have had issues with other captains, you know.	05:30	19	but the captain at that station had transferred out.
05:18	20	Q. What was Tamez's allegations against you?	05:31	20	And so I spoke to the officers at 54 B shift.
05:18	21	Was it related to race, gender, or retaliation?	05:31	21	She was at 92 B shift.
05:18	22	MS. SULLIVAN: Objection to this line	05:31	22	Hey, we need -- we need a new set of
05:18	23	of questioning. At this point I do believe Mr. Tamez	05:31	23	eyes to get her training completed.
05:18	24	actually has a -- let's go off the record, because I	05:31	24	And so they said: That's fine. Send
05:18	25	have already addressed this one time before.	05:31	25	her over.

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05:31	1	Q. Can you look at exhibit 7? Did Henschel	05:34	1	leadership?
05:32	2	complain to you about the complaints that Draycott was	05:34	2	A. No. It looks like captains. I don't think
05:32	3	making?	05:35	3	there are senior captains. I don't see -- I don't see
05:32	4	A. Well, in this e-mail he is notifying me.	05:35	4	Ponce.
05:32	5	Q. Right. I get that he is telling you there	05:35	5	Q. Okay.
05:32	6	were complaints made and here is the information that	05:35	6	A. So it looks like he is sending it to his
05:32	7	you need to know.	05:35	7	colleagues, his other captains.
05:32	8	Did he ever complain to you at any time	05:35	8	Q. Did you ask him why he didn't send that to
05:32	9	about the complaints that Draycott had made at	05:35	9	Ponce?
05:32	10	station 54?	05:35	10	A. No.
05:32	11	MS. SULLIVAN: Objection; vague.	05:35	11	Q. Or Tamez?
05:32	12	A. I don't recall specifically. From time to	05:35	12	A. No. I have to assume that the captain is
05:32	13	time in going by 54 to say how are things going, he	05:35	13	talking to his senior captain.
05:32	14	would, you know -- you know, give me kind of an update,	05:35	14	Q. I guess on a scale of 1 to 10, let me talk
05:32	15	but you know, was that at the same time or close to the	05:35	15	to you a little bit about some of the allegations, and
05:32	16	same time as things were discovered? I don't recall.	05:35	16	I want you to give me a number ranking from severe
05:32	17	BY MS. COHEN:	05:35	17	being -- 10 being the most severe on a scale of 1 to 10
05:32	18	Q. I guess you never took any of these updates	05:35	18	for the following things.
05:32	19	as complaints that Henschel was making against Draycott	05:35	19	The numerous complaints with regard to
05:33	20	or Keyes, correct?	05:35	20	urine being on toilet seats, how severe of an issue is
05:33	21	MS. SULLIVAN: Objection; vague.	05:35	21	that for you on scale of 1 to 10?
05:33	22	Go ahead, and answer.	05:35	22	MS. SULLIVAN: Objection; incomplete
05:33	23	A. I took it as: This is what she is saying.	05:35	23	hypothetical, vague, calls for a legal conclusion,
05:33	24	This is what we are -- we are doing about it. We are	05:35	24	speculative.
05:33	25	talking to the other shifts and really try to -- you	05:35	25	Go ahead, and answer.
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05:33	1	know, if it's not crew members, let's be sure that we	05:36	1	A. We don't rate things like that in the fire
05:33	2	were aware of airport employees in the station, those	05:36	2	department. It's a problem, or it's not. You know,
05:33	3	kind of things.	05:36	3	does it need to be investigated, or can it be handled
05:33	4	BY MR. CAPODICE:	05:36	4	at the station level?
05:33	5	Q. Did he ever mention that it was aggravating	05:36	5	BY MR. CAPODICE:
05:33	6	him the number of complaints that she is making?	05:36	6	Q. Okay. So there is no difference in degree
05:33	7	A. What I remember is -- his frustration was he	05:36	7	of severity between that and let's say, the hot
05:33	8	just wanted -- he just wanted everything -- everyone to	05:36	8	water-related issue that's talked about in this e-mail?
05:33	9	get along, and let's just -- anything was being -- was	05:36	9	MS. SULLIVAN: Objection; calls for a
05:33	10	going wrong to complain about.	05:36	10	legal conclusion, speculative, and incomplete
05:34	11	Q. And I guess on the e-mail at the top here to	05:36	11	hypothetical, vague, speculative.
05:34	12	you, he says: But I feel as though I may be able to	05:36	12	Go ahead, and answer.
05:34	13	bring this to a halt if the members realize the	05:36	13	A. Well, okay. Once it was reported, they
05:34	14	aggravation I must put up with.	05:36	14	called the plumber: Hey, what's going on?
05:34	15	Did you ever ask him what he meant by	05:36	15	You know, we don't know if the valve
05:34	16	that?	05:36	16	was intentionally -- we don't know what happened.
05:34	17	A. No. But it's like -- I am describing his --	05:37	17	Plumber fixed it.
05:34	18	his aggravation was just that the -- there is	05:37	18	BY MR. CAPODICE:
05:34	19	controversy. He doesn't like confrontation or	05:37	19	Q. I understand that, you know. I am just
05:34	20	controversy.	05:37	20	asking: Is there a degree of severity or degree of
05:34	21	Q. And then the e-mail below I notice Tamez's	05:37	21	concern that the water incident was more or less than
05:34	22	name isn't on there. Do you know why that might be?	05:37	22	the pee on seats, for instance?
05:34	23	A. No.	05:37	23	MS. SULLIVAN: Objection; legal
05:34	24	Q. It looks like a pretty exhaustive list of	05:37	24	conclusion, speculative, vague, improper hypothetical.
05:34	25	the ARFF captains at the time, correct, and the	05:37	25	A. They are both -- they are both problems. We

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05:37	1 don't -- we don't rate problems.	05:39	1 From time to time, somebody thinks it's
05:37	2 Severity comes in if there is gun	05:39	2 too loud, so they turn the volume down.
05:37	3 violence, someone threatens to shoot someone else.	05:40	3 The next shift comes in, and I can't
05:37	4 That's more urgent and more severe than -- than the	05:40	4 hear anything. You know, so they call in a -- an
05:37	5 toilet or the hot water.	05:40	5 urgent radio repair.
05:37	6 BY MR. CAPODICE:	05:40	6 And the technician comes out and says:
05:37	7 Q. Yeah. And that's a perfect example. I	05:40	7 Well, somebody turned the volume down.
05:37	8 mean, if someone turns off the cold water to a shower	05:40	8 Q. I think in response to the questions about
05:37	9 and other people don't know about it, can someone get	05:40	9 Draycott's return to 54, you said you would accept
05:37	10 hurt?	05:40	10 Draycott back because you follow orders. Is that
05:37	11 MS. SULLIVAN: Objection; calls for	05:40	11 correct?
05:37	12 speculation.	05:40	12 A. Yes.
05:37	13 Go ahead.	05:40	13 Q. If there was no order, would you have
05:38	14 A. I suppose you could.	05:40	14 accepted Draycott back?
05:38	15 Don't most people turn the water on and	05:40	15 A. I don't understand the question, because she
05:38	16 then test it before walking into the shower.	05:40	16 would come back as a natural result of whatever leave
05:38	17 BY MR. CAPODICE:	05:40	17 she was on, whether it's injured on duty or city
05:38	18 Q. What about the radio issue?	05:40	18 business.
05:38	19 MS. SULLIVAN: Objection; vague.	05:40	19 At the end of that the department says:
05:38	20 BY MR. CAPODICE:	05:40	20 Okay. You are coming back to work. What's your last
05:38	21 Q. When I say the radio issue, you know what I	05:41	21 assignment? Okay. Well, we will code transfer you
05:38	22 am talking about, correct, with the women's dorm?	05:41	22 back to your last assignment.
05:38	23 A. The speaker in the ceiling?	05:41	23 So there is no opportunity to object
05:38	24 Q. Correct.	05:41	24 or -- you know, that's just what happens.
05:38	25 A. Okay. Well, that was reported, and what I	05:41	25 Q. And I guess we talked a little bit earlier
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05:38	1 remember from that was the electrician said loose	05:41	1 about your opinion with Williamson's potential return
05:38	2 wires --	05:41	2 or Tamez's potential return.
05:38	3 Q. Okay. So electrician came by?	05:41	3 With regard to Draycott in particular,
05:38	4 A. -- fixed it.	05:41	4 you didn't form an opinion whether or not she should be
05:38	5 Yes.	05:41	5 able to return to 54?
05:38	6 Q. And said the reason why there is no volume	05:41	6 A. If the law says she is to be returned to her
05:38	7 on the speakers is because of loose wires?	05:41	7 last place of employment, that's what we do.
05:38	8 A. Okay.	05:41	8 Q. And I don't -- did you have a problem with
05:38	9 Q. I didn't see that in the captain's reports.	05:41	9 her coming back to 54?
05:38	10 Is there any reason why that's not in	05:41	10 A. No.
05:38	11 the captain's reports on any documentation?	05:41	11 Q. Do you have any problems with any of the
05:38	12 MS. SULLIVAN: Sorry.	05:41	12 allegations that Draycott, Keyes, or their lawyers made
05:38	13 A. Seems like I remember seeing a -- the	05:42	13 in allegations -- made in the media, I guess, media
05:38	14 maintenance repair slip that an electrician came by and	05:42	14 coverages, anything they said in the media?
05:39	15 you know, loose wires. I don't remember if that was at	05:42	15 MS. SULLIVAN: Objection; vague.
05:39	16 the station, but -- but that's what I got back from as	05:42	16 A. Frankly, I don't remember all the -- all the
05:39	17 the outcome of that service request.	05:42	17 allegations that they made. It seemed like it was
05:39	18 BY MR. CAPODICE:	05:42	18 throwing a lot of accusations out there.
05:39	19 Q. Has that ever been an issue that has ever	05:42	19 You know, I was probably named a couple
05:39	20 happened before in your employment, that someone	05:42	20 times, but it wasn't -- I don't recall anything saying
05:39	21 reported radios being turned off?	05:42	21 mean chief McAteer did this to me.
05:39	22 A. Yes.	05:42	22 So you know -- you know, the problem
05:39	23 Q. When?	05:42	23 that the membership has is we are told -- we are
05:39	24 A. The speakers at 99 and 54 are in the	05:42	24 ordered to not speak to the media about department
05:39	25 ceiling. There is a volume adjustment knob, okay?	05:42	25 issues. So the crews voice to me a concern about a

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05:43	1 double standard.	05:46	1 women's dorm and bathroom, correct?
05:43	2 BY MR. CAPODICE:	05:46	2 A. It doesn't have to be one person.
05:43	3 Q. When did they voice that to you?	05:46	3 MS. SULLIVAN: Objection;
05:43	4 A. Every time this topic came up in the media.	05:46	4 mischaracterizes his testimony.
05:43	5 Q. Multiple times?	05:46	5 Go ahead, and answer.
05:43	6 A. Yes.	05:46	6 A. It doesn't have to be one person. I mean,
05:43	7 Q. So did they have issue with -- were they	05:46	7 they generally -- they, firefighters, generally do
05:43	8 accused of -- I guess let me ask you this.	05:46	8 things as a group. So one person is not out sweeping
05:43	9 Did any of the firefighters or	05:46	9 and mopping. So --
05:43	10 employees of ARFF in the ARFF division believe that	05:46	10 BY MR. CAPODICE:
05:43	11 Draycott and told you that Draycott wrote the graffiti?	05:46	11 Q. And throw away my mischaracterization about
05:43	12 A. Did any of them tell me that they believed	05:46	12 one person. Just someone is supposed to have checked
05:43	13 that? Is that the question?	05:46	13 each shift at 54, the women's dormitory and bathroom,
05:44	14 Q. Correct.	05:46	14 correct?
05:44	15 MS. SULLIVAN: Objection; vague as to	05:46	15 A. Along with every other area of the fire
05:44	16 time.	05:46	16 station.
05:44	17 A. There is a full investigation done. There	05:46	17 Q. Absolutely. With regards to the graffiti
05:44	18 was no determination of who did it.	05:46	18 incident, were you aware of any checks that were done
05:44	19 MR. CAPODICE: Objection;	05:46	19 in the days prior?
05:44	20 nonresponsive.	05:46	20 A. I am not notified that, hey, we did it -- we
05:44	21 A. Could she have -- could she have done it?	05:46	21 checked the whole station today.
05:44	22 Sure. Could someone else have done it? Sure.	05:46	22 I assume it's being done every day.
05:44	23 BY MR. CAPODICE:	05:46	23 Q. When you got that e-mail from Henschel, did
05:44	24 Q. Do you believe she did it?	05:46	24 you circle back with him and go if we are checking the
05:44	25 A. I don't know.	05:47	25 bathrooms each day, we should be able to narrow down
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05:44	1 Q. Did anyone tell you that they believed	05:47	1 the time?
05:44	2 Draycott did it?	05:47	2 A. Well, okay, okay. Yeah, so that was -- like
05:44	3 MS. SULLIVAN: Objection; vague as to	05:47	3 I said, I don't remember specifically what I -- what I
05:44	4 time.	05:47	4 went back and talked to Henschel about or talked to the
05:44	5 A. I have heard: Well, what if -- what if she	05:47	5 senior captains about.
05:44	6 did it, huh? What about that?	05:47	6 I do kind of remember saying if we are
05:44	7 You know, but I don't remember, you	05:47	7 doing that, if we are looking every morning, then --
05:44	8 know, people saying I believe she did that.	05:47	8 then we would know what the bathroom looks like so we
05:44	9 BY MR. CAPODICE:	05:47	9 can maybe grab the off going shift: Hey, what's going
05:44	10 Q. So no one told you that?	05:47	10 on here?
05:44	11 A. No. It was generally what ifs and you know,	05:47	11 Q. Were they not following the policy?
05:45	12 what has changed from prior to graffiti to now? You	05:47	12 A. I don't know.
05:45	13 know, that was their main concern, was: Since nothing	05:47	13 Q. Okay. Did you follow up with them and ask
05:45	14 has changed, if unknown person does this again, oh, my	05:47	14 them if they were following the policy?
05:45	15 gosh, we look horrible. How can we keep this from	05:47	15 A. Yes.
05:45	16 happening again?	05:47	16 Q. And did they say that they were?
05:45	17 Q. In 2006 with the complaints with regard to	05:47	17 A. Yeah.
05:45	18 the restroom, I believe you said that the policy now is	05:48	18 Whether it was directly after this, I
05:45	19 for the captain to inspect the premises upon the start	05:48	19 can't say, but you know, I have had conversations,
05:45	20 of his shift. Do you recall that?	05:48	20 officer meetings with the officers, you know: If
05:45	21 A. Yeah, the captain or someone, you know. The	05:48	21 you-all are checking out the entire station every
05:45	22 captain can delegate that. I mean, the captain has got	05:48	22 morning, then we can identify problems quicker and
05:45	23 things to do at the beginning of the shift.	05:48	23 hopefully get some resolution on it.
05:45	24 Q. And one of the things that they are to do is	05:48	24 So that's the kind of message I had
05:46	25 to have one person inspect the facilities including the	05:48	25 with the officers. I assume that they are doing the

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05:48	1 right thing.	05:51	1 BY MR. CAPODICE:
05:48	2 Q. I guess when you continued to have issues	05:51	2 Q. Okay. What is your training with regards to
05:48	3 with women's dormitory and bathrooms, you circled back	05:51	3 captain logs and documenting employees making
05:48	4 with them again and say: How are we having these	05:51	4 complaints to OIG or staff services?
05:48	5 problems when we were checking them each day?	05:52	5 MS. SULLIVAN: Objection; vague as to
05:48	6 MS. SULLIVAN: Objection;	05:52	6 time.
05:48	7 mischaracterizes his testimony.	05:52	7 A. Generally on the job, this is how you fill
05:49	8 Go ahead.	05:52	8 out a captain's log. You know, you jot down who is at
05:49	9 A. Basically with the problems with the	05:52	9 work today, you know, who is off, fuel readings, note
05:49	10 bathroom -- now, the shower and the speaker would not	05:52	10 significant events of the day, you know, and then
05:49	11 be identified as a problem during a station visual	05:52	11 basically the complaint guideline, the mayor's order
05:49	12 check and clean.	05:52	12 on, you know, discrimination, you know, sexual
05:49	13 But you know, there is a run of the	05:52	13 harassment. It's basically read and -- read,
05:49	14 bathroom complaints, but you know, I don't recall	05:52	14 understand, and comply the best you can.
05:49	15 hearing that it was still an ongoing problem.	05:52	15 BY MR. CAPODICE:
05:49	16 BY MR. CAPODICE:	05:52	16 Q. And I guess are you trained to document
05:49	17 Q. Have you ever given a depo before?	05:52	17 employees' complaints regarding gender discrimination
05:49	18 A. Yes.	05:53	18 and retaliation on a captain's log?
05:49	19 Q. When?	05:53	19 A. I wouldn't put specifics in there, but it
05:49	20 A. Several months ago for the Tamez lawsuit.	05:53	20 might -- am I trained? No.
05:50	21 Q. Any other depos?	05:53	21 MR. CAPODICE: Let's take a quick
05:50	22 A. I don't remember. Typically it's a written	05:53	22 five-minute break. Let me jot down a couple questions,
05:50	23 affidavit for a complaint response. So I -- if I have,	05:53	23 and I think we will be done, I think.
05:50	24 I don't remember it.	05:53	24 THE VIDEOGRAPHER: 5:52, off record.
05:50	25 Q. I think we talked earlier about the issues	05:53	25 (Recess from 5:53 to 5:59 p.m.)
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05:50	1 in the bathrooms, and I guess your captains are kind of	05:59	1 THE VIDEOGRAPHER: 5:58, back on
05:50	2 keeping you informed on the issues.	05:59	2 record.
05:50	3 Did you have any problem with the	05:59	3 BY MR. CAPODICE:
05:50	4 performance of the captains once the graffiti problem	05:59	4 Q. Chief, quick question, following the
05:50	5 occurred with regards to them keeping you in the loop	05:59	5 Draycott -- following the graffiti incident at 54, did
05:50	6 of problems with the bathrooms and the women's dorms?	05:59	6 you criticize Tamez for allowing pictures of the scene
05:50	7 MS. SULLIVAN: Objection; vague,	05:59	7 to be taken?
05:50	8 compound.	05:59	8 A. I don't recall that.
05:50	9 Go ahead.	05:59	9 I remember Paula had the pictures of
05:51	10 Confusing.	05:59	10 the scene up on the computer in the kitchen. I tell
05:51	11 A. So did I have any problems with my captains	05:59	11 her: Hey, you are not e-mailing anything, right?
05:51	12 keeping me informed? I don't believe so.	05:59	12 Oh, I have already e-mailed it to Isiah
05:51	13 BY MR. CAPODICE:	05:59	13 Carey.
05:51	14 Q. Especially after viewing exhibit 6 today	05:59	14 So we are not allowed to do that. Take
05:51	15 where they documented a lot of the issues, some of	06:00	15 that down right now.
05:51	16 which you said you didn't know about, correct?	06:00	16 And so that was part of the, hey,
05:51	17 MS. SULLIVAN: Vague to the	06:00	17 captain Tamez, you need to be out here engaged so
05:51	18 characterization of what's in exhibit 6.	06:00	18 things like this don't happen.
05:51	19 MR. MONTEIRO: It's the captain's log,	06:00	19 Q. Did you witness Krusleski criticize Tamez
05:51	20 right?	06:00	20 and call him unprofessional for allowing the pictures
05:51	21 MR. CAPODICE: Yeah, the captain's log.	06:00	21 to be taken?
05:51	22 A. Oh, okay, okay. Well, you know -- you know,	06:00	22 A. No, I don't remember anything like that.
05:51	23 as I said earlier, did I get notified at the same time	06:00	23 Q. And did Tamez ever tell you that he
05:51	24 they made this? I don't remember. I don't remember	06:00	24 instructed Williamson not to write the letter that he
05:51	25 when I got notified.	06:00	25 read on the roll call during roll call?

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06:00	1	A. No, he did not tell me that, that I recall.	06:04	1	they wouldn't listen to her because she was a female,
06:00	2	I have -- I have seen that somewhere. If it was a	06:04	2	never got that at all.
06:00	3	complaint -- I don't remember where -- where I saw	06:04	3	Q. And then if a firefighter is away for six
06:01	4	that, but the -- Tamez said he had told Williamson not	06:04	4	months on their ARFF lineup duty, are they required to
06:01	5	to write that letter.	06:04	5	take a test before they come back?
06:01	6	Q. Have you ever heard Williamson refer to	06:04	6	MS. SULLIVAN: Objection; vague as to
06:01	7	having been a leader of an informal group called a wolf	06:04	7	time.
06:01	8	pack or good old boys?	06:04	8	A. At some point, you know, the ARFF internship
06:01	9	A. No.	06:04	9	program kind of got formalized probably '09-ish.
06:01	10	Q. Did you witness any divisiveness between the	06:05	10	Then the question came up what about if
06:01	11	men and women in ARFF before or after the -- before or	06:05	11	someone goes and comes back?
06:01	12	after the graffiti incident?	06:05	12	Well, how long?
06:01	13	A. What do you mean by divisiveness?	06:05	13	Okay. So well, what we kind of came up
06:01	14	Q. That's a good question.	06:05	14	with, with command staff approval, was if you had been
06:01	15	Any type of issues -- let me switch --	06:05	15	away more than six months but less than a year, it's a
06:02	16	let me switch gears.	06:05	16	modified internship. You know, you don't have to redo
06:02	17	As parts of Sharon Branch's complaints	06:05	17	everything. It's just airport familiarization, maybe
06:02	18	against you, did the issue of radios and the fact that	06:05	18	airport emergency plan. It was something else.
06:02	19	they were turned off when she was giving orders, is	06:05	19	You know, the regular interns -- okay.
06:02	20	that kind of your understanding of the situation or the	06:05	20	If you have been off more than a year, it's a regular
06:02	21	complaint that she had made?	06:05	21	internship.
06:02	22	A. I don't believe Sharon Branch made the	06:05	22	BY MR. CAPODICE:
06:02	23	complaint.	06:05	23	Q. When was that formalized?
06:02	24	Q. That was one of the ways Tamez accused you	06:05	24	A. '09 -- '08 -- it was sometime in '08.
06:02	25	of undermining?	06:06	25	Q. That was the document that you had reviewed
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06:02	1	A. Right. And that came from Tamez. Sharon	06:06	1	in preparation for your deposition -- you said
06:02	2	did not voice a -- voice or file a formal complaint	06:06	2	something related to tracking the internship program?
06:02	3	alleging the radios had been turned off.	06:06	3	That's what you are talking about?
06:02	4	Q. Do you recall the issue? Did she report to	06:06	4	A. Yes.
06:03	5	you that the radios were turned off?	06:06	5	MR. CAPODICE: Pass the witness.
06:03	6	A. Okay. That was a bomb scare. I mean, I	06:06	6	EXAMINATION
06:03	7	remember what Tamez reported was completely different	06:06	7	BY MR. SULLIVAN:
06:03	8	than what I witnessed. It was a bomb scare at Hobby,	06:06	8	Q. How many years have you been in the
06:03	9	Southwest aircraft.	06:06	9	department?
06:03	10	I responded out there: You know, hey,	06:06	10	A. I'm in my 34th year.
06:03	11	Sharon, how is -- how is everything going, you know?	06:06	11	Q. And you have worked at a variety of
06:03	12	Well, you know, waiting on HPD. They	06:06	12	stations, correct?
06:03	13	won't send the bomb sniffing dogs. The -- the trucks	06:06	13	A. Yes, ma'am.
06:03	14	were not on the right tac channel, but you know, we got	06:06	14	Q. Have you found urine on the seats in the
06:03	15	that fixed real quick. We told them to go to this tac	06:06	15	men's bathroom?
06:03	16	channel instead of the main dispatch channel.	06:06	16	A. Yes.
06:03	17	She never said anyone had turned their	06:06	17	Q. You were asked a series of questions by
06:03	18	radios off.	06:06	18	Mr. Monteiro as it relates to McAteer exhibit 6, which
06:04	19	That's absolutely nuts. No one would	06:06	19	is the captain's daily log. There is references to, I
06:04	20	do that anyhow.	06:06	20	believe, urine on the toilet seats.
06:04	21	She said everything was under control.	06:06	21	Do you remember that line of
06:04	22	She didn't need anything. You know, she said she, you	06:06	22	questioning?
06:04	23	know, went over to the trucks: You know, hey we are on	06:06	23	A. Yes.
06:04	24	tack, whatever, 10, kind of motioned to them.	06:06	24	Q. Okay. And it's your testimony that you did
06:04	25	They -- she never said anything about	06:07	25	not review those captains' logs at that -- at that

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06:07 1 time?

06:07 2 **A. Yes, correct.**

06:07 3 Q. Okay. And as you sit here today, did you

06:07 4 see any information on -- in those entries that would

06:07 5 indicate to you that those were intentionally left by

06:07 6 any member or person that had access to station 54?

06:07 7 **A. No. I mean, so the -- the log entries did**

06:07 8 **not indicate that the urine was intentionally left on**

06:07 9 **the seat, right.**

06:07 10 Q. In the fire station, when you are doing the

06:07 11 inspections, there is a time period where they kind of

06:07 12 generally clean up the station. Is that correct?

06:07 13 **A. Yes.**

06:07 14 Q. Okay. And is it the responsibility of all

06:07 15 firefighters to clean up behind whoever in the fire

06:07 16 station?

06:07 17 **A. Yes.**

06:08 18 MS. SULLIVAN: That's all the followup

06:08 19 I have.

06:08 20 MR. MONTEIRO: Nothing further.

06:08 21 MR. CAPODICE: We are good.

06:08 22 THE VIDEOGRAPHER: 6:07, off the

06:08 23 record.

24

25

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1 CORRECTIONS AND SIGNATURE

2 PAGE LINE CHANGE REASON

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23 _____

24 I, GEORGE LUTHER McATEER, JR., have read the

25 foregoing deposition and hereby affix my signature that

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1 same is true and correct, except as noted herein.

2

3 GEORGE LUTHER McATEER, JR.

4

5 THE STATE OF _____)

6 COUNTY OF _____)

7 Before me, _____, on this

8 day personally appeared GEORGE LUTHER McATEER, JR.,

9 known to me (or proved to me under oath through _____

10 _____) (description of identity card or other

11 document) to be the person whose name is subscribed to

12 the foregoing instrument and acknowledged to me that

13 they executed the same for the purposes and

14 consideration therein expressed.

15 Given under my hand and seal of office this

16 _____ day of _____, _____.

17

18

19

20

21

22

23

24

25

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

Page 252

1 UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 UNITED STATES OF :
AMERICA :
VS. : CIVIL ACTION NO. 4:18-CV-00644
CITY OF HOUSTON :
JANE DRAYCOTT AND :
PAULA KEYES :
VS. :
CITY OF HOUSTON :

11 REPORTER'S CERTIFICATION

12 DEPOSITION OF GEORGE LUTHER McATEER, JR.

13 April 11, 2019

14

15 I, Craig Michael Bechtel, Certified Shorthand

16 Reporter in and for the State of Texas, hereby certify

17 to the following:

18 That the witness, GEORGE LUTHER McATEER, JR., was

19 duly sworn by the officer and that the transcript of the

20 oral deposition is a true record of the testimony given

21 by the witness;

22 That the deposition transcript was submitted on

23 _____ to the witness or to the attorney

24 for the witness for examination, signature and return to

25 me by _____;

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1 That the amount of time used by each party at the
2 deposition is as follows:
3 Mr. Jeremy Monteiro - 06:03
4 Mr. Dwain Capodice - 00:43
5 Ms. Deidra Sullivan - 00:02
6 That pursuant to information given to the
7 deposition officer at the time said testimony was taken,
8 the following includes counsel for all parties of
9 record:
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10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties or
12 attorneys in the action in which this proceeding was
13 taken, and further that I am not financially or
14 otherwise interested in the outcome of the action.
15 Further certification requirements will be
16 certified to after they have occurred.
17 Certified to by me this _____ day of
18 _____, _____.
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

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